



Reprinted
February 10, 2009

SENATE BILL No. 541

DIGEST OF SB 541 (Updated February 9, 2009 5:42 pm - DI 58)

Citations Affected: IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-4.1; IC 6-6; IC 6-8.1; IC 22-4; noncode.

Synopsis: Various tax matters. Makes changes to bring Indiana in conformance with the Streamlined Sales and Use Tax Agreement as amended through September 5, 2008. Updates the definition of "gross retail income" to coincide with the definition of "sales price". Requires the use tax to be paid at the time of registering a watercraft that is a United States Coast Guard documented vessel. Requires new retail merchants to file returns and remit sales tax electronically. Provides relief for retail merchants if there is a change in the sales and use tax rate. Makes permanent the sourcing rule for floral deliveries providing that a sale is sourced to the location of the florist where the order originated when the sale involves one florist taking an order and transferring the order to another florist for delivery to the final recipient. Provides that the sale of Internet access service or certain ancillary service telecommunication services are sourced to the customer's place of primary use. Requires refiners, terminal operators, and qualified distributors to remit prepaid state gross retail taxes through the department's online tax filing system. Requires the department of state revenue to determine a new sales tax prepayment rate on gasoline every three months. Eliminates the requirement to publish the prepayment rate change in the Indiana Register. Allows the department of state revenue, subject to office of management and budget approval, to make a new prepayment rate determination if the price of gasoline has changed by at least 25% since the most recent determination. Uses 80% instead of 90% of the estimated tax liability
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Effective: Upon passage; January 1, 2008 (retroactive); January 1, 2009 (retroactive); April 1, 2009 (retroactive); July 1, 2009; January 1, 2010; July 1, 2010.

Hershman, Landske

January 15, 2009, read first time and referred to Committee on Tax and Fiscal Policy.
January 29, 2009, amended, reported favorably — Do Pass.
February 9, 2009, read second time, amended, ordered engrossed.

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in making the determination. Provides that an inheritance tax lien terminates on the earlier of: (1) the date the inheritance tax is paid; (2) when certain affidavits are filed specifying that no tax is due; or (3) ten years (rather than five years, under current law) after the date of the decedent's death. Changes the inheritance tax interest accrual date. Provides that September 1 is the deadline for International Fuel Tax Agreement applications to be filed in order to receive the permit by January 1. Allows a repair and maintenance permit to be used by unregistered off-road vehicles to move from and to a quarry or mine for the purpose of repair. Requires the department of state revenue (department) to post on the department's web site the name of every registered retail merchant that has not renewed its retail merchant certificate or whose certificate has been revoked. Provides that a foreign real estate investment trust that has a tax treaty with the United States or a listed property trust will not be included in the add back to adjusted gross income as a captive REIT. Adds a definition of "pass through entity". Provides that income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and attributed to Indiana as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Provides that an individual may claim a deduction for state income tax purposes for property taxes that: (1) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date; (2) are due after December 31, 2008; and (3) are paid in 2009 on or before the due date for the property taxes. For purposes of the tax credit for contributions to the college choice 529 education savings plan: (1) defines "contribution" to exclude rollovers from other 529 savings plans; and (2) excludes value added to the account through earnings of bonus points. Allows the department of state revenue to disallow the 529 savings plan income tax credit if tax avoidance is the principal purpose of the contribution. Includes vehicles that operate on biodiesel or diesel fuel for purposes of the Hoosier alternative fuel vehicle manufacturer income tax credit. Provides that the ability to opt out of electronic filing when using a paid tax preparer is available only to a taxpayer who claims the additional exemption for the elderly or who has opted out of participating in federal Social Security programs because of religious beliefs. Requires all new withholding tax registrants to file returns and remit the withholding taxes electronically through the department's online tax filing program. Provides that for winnings that exceed \$1,200 on gambling games at racetracks, the operator is required to withhold adjusted gross income tax from the winnings. Amends the county adjusted gross income tax, county option income tax, and county economic development income tax statutes to provide that the budget agency (rather than the department) certifies the revenue distribution to counties. Requires the department to provide relief under the gasoline tax statutes where a shipment of gasoline is legitimately diverted from the represented destination state after the shipping paper has been issued by the terminal operator or where the terminal operator failed to cause proper information to be printed on the shipping paper. Repeals the requirement that a person must obtain an import verification number in certain circumstances to import special fuel into Indiana. Specifies that road tractors are included in the definition of "commercial vehicle" for purposes of the commercial vehicle excise tax. Provides that a taxing unit's calendar year commercial motor vehicle excise tax distribution is based on the amount of tax collected in the preceding state calendar year (rather than 105% of the prior year's base revenue). Provides that a county's base revenue for purposes of the commercial motor vehicle excise tax is equal to its distribution percentage multiplied by the amount of tax revenue collected in the preceding state fiscal year. Requires an airport

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operator to submit reports to the department listing aircraft stationed at the airport. Provides that if the airport operator submits an incomplete report, the airport operator is subject to a civil penalty of \$100 per aircraft not properly included in the report. Specifies that the department has the sole authority to furnish forms used in the reporting of information in an electronic format. Allows the department to use statistical sampling in audits. Provides that if the taxpayer and the department agree on a sampling method to be used, the sampling method is binding on both parties. Specifies that if the department erroneously issues a refund check to a taxpayer, the department has two years from the time of issuing the erroneous refund to issue a proposed assessment. Requires (rather than allows) a taxpayer to round to the nearest dollar amount on income tax returns. Provides that partnerships and trusts are subject to the 20% penalty for failure to withhold and remit taxes required to be withheld for nonresident partners or nonresident beneficiaries. Provides that if a person has had more than one payment to the department returned for insufficient funds, the department may require that all future payments for all listed taxes be remitted with guaranteed funds. Allows the department to require a taxpayer that is on a payment plan for sales or withholding tax liabilities to make the payment using an automatic withdrawal from the person's bank account. Adds the utility receipts tax to the taxes for which a six, versus a three, year limit on assessment applies if gross receipts are understated by at least 25%. Exempts beer brand and packaged type from the department's confidentiality law. Provides that the legislative services agency may have access to employer specific information (ES202 data) for revenue forecasting. Provides a refund of gross income taxes erroneously paid for 2003 and 2004 by a town if the town also paid the utilities receipts tax for the same year.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 541

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as
3 provided in subsection (b), "gross retail income" means the total ~~gross~~
4 ~~receipts, of any kind or character, received in a retail transaction,~~
5 **amount of consideration**, including cash, credit, property, and
6 services, for which tangible personal property is sold, leased, or rented,
7 valued in money, whether received in money or otherwise, without any
8 deduction for:
9 (1) the seller's cost of the property sold;
10 (2) the cost of materials used, labor or service cost, interest,
11 losses, all costs of transportation to the seller, all taxes imposed
12 on the seller, and any other expense of the seller;
13 (3) charges by the seller for any services necessary to complete
14 the sale, other than delivery and installation charges;
15 (4) delivery charges; or
16 ~~(5) the value of exempt personal property given to the purchaser~~
17 ~~where taxable and exempt personal property have been bundled~~

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together and sold by the seller as a single product or piece of merchandise.

(5) consideration received by the seller from a third party if:

(A) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

(1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power

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subsidary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 2. IC 6-2.5-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) For purposes of this section, "person" includes an individual who is personally liable for use tax under IC 6-2.5-9-3.

(b) The person who uses, stores, or consumes the tangible personal property acquired in a retail transaction is personally liable for the use tax.

(c) The person liable for the use tax shall pay the tax to the retail merchant from whom the person acquired the property, and the retail merchant shall collect the tax as an agent for the state, if the retail merchant is engaged in business in Indiana or if the retail merchant has departmental permission to collect the tax. In all other cases, the person shall pay the use tax to the department.

(d) Notwithstanding subsection (c), a person liable for the use tax imposed in respect to a vehicle, watercraft, or aircraft under section 2(b) of this chapter shall pay the tax:

(1) to the titling agency when the person applies for a title for the vehicle or the watercraft; ~~or~~

(2) to the registering agency when the person registers the aircraft; **or**

(3) to the registering agency when the person registers the watercraft because it is a United States Coast Guard documented vessel;

unless the person presents proof to the agency that the use tax or state gross retail tax has already been paid with respect to the purchase of the vehicle, watercraft, or aircraft or proof that the taxes are inapplicable because of an exemption under this article.

(e) At the time a person pays the use tax for the purchase of a vehicle to a titling agency pursuant to subsection (d), the titling agency shall compute the tax due based on the presumption that the sale price was the average selling price for that vehicle, as determined under a used vehicle buying guide to be chosen by the titling agency. However, the titling agency shall compute the tax due based on the actual sale price of the vehicle if the buyer, at the time the buyer pays the tax to the titling agency, presents documentation to the titling agency sufficient to rebut the presumption set forth in this subsection and to establish the actual selling price of the vehicle.

SECTION 3. IC 6-2.5-6-1, AS AMENDED BY P.L.131-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) Except as otherwise provided in this

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1 section, each person liable for collecting the state gross retail or use tax
 2 shall file a return for each calendar month and pay the state gross retail
 3 and use taxes that the person collects during that month. A person shall
 4 file the person's return for a particular month with the department and
 5 make the person's tax payment for that month to the department not
 6 more than thirty (30) days after the end of that month, if that person's
 7 average monthly liability for collections of state gross retail and use
 8 taxes under this section as determined by the department for the
 9 preceding calendar year did not exceed one thousand dollars (\$1,000).
 10 If a person's average monthly liability for collections of state gross
 11 retail and use taxes under this section as determined by the department
 12 for the preceding calendar year exceeded one thousand dollars
 13 (\$1,000), that person shall file the person's return for a particular month
 14 and make the person's tax payment for that month to the department not
 15 more than twenty (20) days after the end of that month.

16 (b) If a person files a combined sales and withholding tax report and
 17 either this section or IC 6-3-4-8.1 requires sales or withholding tax
 18 reports to be filed and remittances to be made within twenty (20) days
 19 after the end of each month, then the person shall file the combined
 20 report and remit the sales and withholding taxes due within twenty (20)
 21 days after the end of each month.

22 (c) Instead of the twelve (12) monthly reporting periods required by
 23 subsection (a), the department may permit a person to divide a year into
 24 a different number of reporting periods. The return and payment for
 25 each reporting period is due not more than twenty (20) days after the
 26 end of the period.

27 (d) Instead of the reporting periods required under subsection (a),
 28 the department may permit a retail merchant to report and pay the
 29 merchant's state gross retail and use taxes for a period covering a
 30 calendar year, if the retail merchant's state gross retail and use tax
 31 liability in the previous calendar year does not exceed one thousand
 32 dollars (\$1,000). A retail merchant using a reporting period allowed
 33 under this subsection must file the merchant's return and pay the
 34 merchant's tax for a reporting period not later than the last day of the
 35 month immediately following the close of that reporting period.

36 (e) If a retail merchant reports the merchant's adjusted gross income
 37 tax, or the tax the merchant pays in place of the adjusted gross income
 38 tax, over a fiscal year not corresponding to the calendar year, the
 39 merchant may, without prior departmental approval, report and pay the
 40 merchant's state gross retail and use taxes over the merchant's fiscal
 41 year that corresponds to the calendar year the merchant is permitted to
 42 use under subsection (d). However, the department may, at any time,

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require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

- (1) this section;
- (2) IC 6-3-4-8; or
- (3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

- (1) estimated monthly gross retail and use tax liability for the current year; or
- (2) average monthly gross retail and use tax liability for the preceding year;

exceeds five thousand dollars (\$5,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) A person that registers as a retail merchant after December 31, 2009, is required to report and remit state gross retail and use taxes through the department's online tax filing program. This subsection does not apply to a retail merchant that was a registered retail merchant before January 1, 2010, but adds an additional place of business in accordance with IC 6-2.5-8-1(e) after December 31, 2009.

~~(h)~~ (i) A person:

- (1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;
- (2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and
- (3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars (\$1,000);

is not required to file a monthly gross retail and use tax return.

SECTION 4. IC 6-2.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Each refiner or terminal operator and each qualified distributor that has received a prepayment of the state gross retail tax under this chapter shall remit the tax received to the department semimonthly, **through the department's online tax filing system**, according to the following schedule:

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(1) On or before the tenth day of each month for prepayments received after the fifteenth day and before the end of the preceding month.

(2) On or before the twenty-fifth day of each month for prepayments received after the end of the preceding month and before the sixteenth day of the month in which the prepayments are made.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file a report covering the prepaid taxes received and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

(1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.

(2) The amount of tax prepaid by each purchaser or receiver.

(3) Any other information reasonably required by the department.

SECTION 5. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2009 (RETROACTIVE)]: Sec. 14. (a) Before **March 10**, June 10, **September 10**, and December 10 of each year, the department shall determine and provide to:

(1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and

(2) any other person that makes a request;

a notice of the prepayment rate to be used during the following ~~six (6)~~ **three (3)** month period. ~~The department shall also have the prepayment rate published in the June and December issues of the Indiana Register. The department, after approval by the office of management and budget, may determine a new prepayment rate if the department finds that the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax, has changed by at least twenty-five percent (25%) since the most recent determination.~~

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline

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taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The STEP ONE amount.

(B) The Indiana gross retail tax rate.

(C) ~~Ninety Eighty percent (90%)~~: **(80%)**.

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001).

SECTION 6. IC 6-2.5-11-10, AS AMENDED BY P.L.145-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a

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performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) A certified service provider or a seller using a certified automated system that obtains a certification from the department is not liable for sales or use tax collection errors that result from reliance on the department's certification. If the department determines that an item or transaction is incorrectly classified as to the taxability of the item or transaction, the department shall notify the certified service provider or the seller using a certified automated system of the incorrect classification. The certified service provider or the seller using a certified automated system must revise the incorrect classification within ten (10) days after receiving notice of the determination from the department. If the classification error is not corrected within ten (10) days after receiving the department's notice, the certified service provider or the seller using a certified automated system is liable for failure to collect the correct amount of sales or use tax due and owing.

(e) **If at least thirty (30) days is not provided between the enactment of a statute changing the rate set forth in IC 6-2.5-2-2 and the effective date of the rate change, the department shall relieve the seller of liability for failing to collect tax at the new rate if:**

- (1) the seller collected the tax at the immediately preceding effective rate; and**
- (2) the seller's failure to collect at the current rate does not extend beyond thirty (30) days after the effective date of the rate change.**

A seller is not eligible for the relief provided for in this subsection if the seller fraudulently fails to collect at the current rate or solicits purchases based on the immediately preceding effective rate.

~~(e)~~ (f) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 7. IC 6-2.5-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. Except for the telecommunications services listed in section 16 of this chapter, a sale of:

- (1) telecommunications services sold on a basis other than a call by call basis;**
- (2) Internet access service; or**
- (3) an ancillary service;**



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is sourced to the customer's place of primary use.

SECTION 8. IC 6-2.5-13-1, AS AMENDED BY P.L.19-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

(1) taking possession of tangible personal property;
 (2) making first use of services; or
 (3) taking possession or making first use of digital goods;
 whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

(1) applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;
 (2) applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and
 (3) does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.
 (2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).
 (3) Telecommunications services, ancillary services, and Internet access service shall be sourced in accordance with IC 6-2.5-12.

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
 (2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
 (3) When subdivisions (1) and (2) do not apply, the sale is

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sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

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(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) registered through the International Registration Plan; and

(B) operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

~~(h) This subsection applies to retail sales of floral products that occur before January 1, 2010.~~ Notwithstanding subsection (d), a retail sale of floral products in which a florist or floral business:

(1) takes a floral order from a purchaser; and

(2) transmits the floral order by telegraph, telephone, or other means of communication to another florist or floral business for delivery;

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is sourced to the location of the florist or floral business that originally takes the floral order from the purchaser.

SECTION 9. IC 6-3-1-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 3.7. (a) This section applies only to an individual who in 2009 paid property taxes that:**

(1) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;

(2) are due after December 31, 2008; and

(3) are paid on or before the due date for the property taxes.

(b) An individual described in subsection (a) is entitled to a deduction from adjusted gross income for a taxable year beginning after December 31, 2008, and before January 1, 2010, in an amount equal to the amount determined in the following STEPS:

STEP ONE: Determine the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the total amount of property taxes imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date and paid in 2008 or 2009.

STEP TWO: Determine the greater of zero (0) or the result of:

(A) the STEP ONE result; minus

(B) the total amount of property taxes that:

(i) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;

(ii) were paid in 2008; and

(iii) were deducted from adjusted gross income under section 3.5(a)(17) of this chapter by the individual on the individual's state income tax return for a taxable year beginning before January 1, 2009.

(c) The deduction under this section is in addition to any deduction that an individual is otherwise entitled to claim under section 3.5(a)(17) of this chapter. However, an individual may not deduct under section 3.5(a)(17) of this chapter any property taxes deducted under this section.

(d) This section expires January 1, 2014.

SECTION 10. IC 6-3-1-34.5, AS ADDED BY P.L.211-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 34.5. (a) Except as**

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provided in subsection (b), "captive real estate investment trust" means a corporation, a trust, or an association:

(1) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;

(2) that is not regularly traded on an established securities market; and

(3) in which more than fifty percent (50%) of the:

(A) voting power;

(B) beneficial interests; or

(C) shares;

are owned or controlled, directly or constructively, by a single entity that is subject to Subchapter C of Chapter 1 of the Internal Revenue Code.

(b) The term does not include a corporation, a trust, or an association in which more than fifty percent (50%) of the entity's voting power, beneficial interests, or shares are owned by a single entity described in subsection (a)(3) that is owned or controlled, directly or constructively, by:

(1) a corporation, a trust, or an association that is considered a real estate investment trust under Section 856 of the Internal Revenue Code;

(2) a person exempt from taxation under Section 501 of the Internal Revenue Code;

(3) a listed property trust or other foreign real estate investment trust that is organized in a country that has a tax treaty with the United States Treasury Department governing the tax treatment of these trusts; or

~~(4)~~ **(4)** a real estate investment trust that:

(A) is intended to become regularly traded on an established securities market; and

(B) satisfies the requirements of Section 856(a)(5) and Section 856(a)(6) of the Internal Revenue Code under Section 856(h) of the Internal Revenue Code.

(c) For purposes of this section, the constructive ownership rules of Section 318 of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply to the determination of the ownership of stock, assets, or net profits of any person.

SECTION 11. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 35. As used in this article, "pass through entity" means:**

(1) a corporation that is exempt from the adjusted gross

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- income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a trust;
- (4) a limited liability company; or
- (5) a limited liability partnership.

SECTION 12. IC 6-3-2-2, AS AMENDED BY P.L.162-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is

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1 subject to tax under Section 831 of the Internal Revenue Code, only so
 2 much of the income as is apportioned to Indiana under subsection (r)
 3 is considered derived from sources within Indiana.

4 (b) Except as provided in subsection (l), if business income of a
 5 corporation or a nonresident person is derived from sources within the
 6 state of Indiana and from sources without the state of Indiana, the
 7 business income derived from sources within this state shall be
 8 determined by multiplying the business income derived from sources
 9 both within and without the state of Indiana by the following:

10 (1) For all taxable years that begin after December 31, 2006, and
 11 before January 1, 2008, a fraction. The:

12 (A) numerator of the fraction is the sum of the property factor
 13 plus the payroll factor plus the product of the sales factor
 14 multiplied by three (3); and

15 (B) denominator of the fraction is five (5).

16 (2) For all taxable years that begin after December 31, 2007, and
 17 before January 1, 2009, a fraction. The:

18 (A) numerator of the fraction is the property factor plus the
 19 payroll factor plus the product of the sales factor multiplied by
 20 four and sixty-seven hundredths (4.67); and

21 (B) denominator of the fraction is six and sixty-seven
 22 hundredths (6.67).

23 (3) For all taxable years beginning after December 31, 2008, and
 24 before January 1, 2010, a fraction. The:

25 (A) numerator of the fraction is the property factor plus the
 26 payroll factor plus the product of the sales factor multiplied by
 27 eight (8); and

28 (B) denominator of the fraction is ten (10).

29 (4) For all taxable years beginning after December 31, 2009, and
 30 before January 1, 2011, a fraction. The:

31 (A) numerator of the fraction is the property factor plus the
 32 payroll factor plus the product of the sales factor multiplied by
 33 eighteen (18); and

34 (B) denominator of the fraction is twenty (20).

35 (5) For all taxable years beginning after December 31, 2010, the
 36 sales factor.

37 (c) The property factor is a fraction, the numerator of which is the
 38 average value of the taxpayer's real and tangible personal property
 39 owned or rented and used in this state during the taxable year and the
 40 denominator of which is the average value of all the taxpayer's real and
 41 tangible personal property owned or rented and used during the taxable
 42 year. However, with respect to a foreign corporation, the denominator

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does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or
- (3) some of the service is performed in this state and:
 - (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or
 - (B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

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(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property

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are allocable to this state if:

- (i) the property had a situs in this state at the time of the sale; or
- (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

- (i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or
- (ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) separate accounting;
- (2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;
- (3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
- (4) the employment of any other method to effectuate an equitable

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allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the

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Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

- (1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and
- (2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

SECTION 13. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, a pass through entity, an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), IC 6-3-2-2.8(4), or IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government and who:

- (1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;
- (2) performs services for the taxpayer, the employer, the nonprofit entity, the state, the political subdivision, or the United States government, ninety percent (90%) of which are directly related to:
 - (A) the conduct of the taxpayer's or employer's trade or business; or
 - (B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;
- that is located in an enterprise zone; and
- (3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) For purposes of this section, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

(c) (b) Except as provided in subsection (d), (c), a qualified employee is entitled to a deduction from his the employee's adjusted

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gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of ~~his~~ **the employee's** adjusted gross income for the taxable year that ~~he~~ **the employee** earns as a qualified employee; or

(2) seven thousand five hundred dollars (\$7,500).

~~(d)~~ **(c)** No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which ~~he~~ **the employee** resides.

SECTION 14. IC 6-3-3-10, AS AMENDED BY P.L.4-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

~~"Pass through entity" means a:~~

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(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

(1) has the individual's principal place of residence in the enterprise zone in which the individual is employed;

(2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;

(3) performs at least fifty percent (50%) of the individual's services for the taxpayer during the taxable year in the enterprise zone; and

(4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

(1) For a taxpayer's taxable year other than the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;

(2) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and

(3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this

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1 section.

2 "Qualified wages" means the wages paid or payable to qualified
3 employees during a taxable year.

4 "Taxpayer" includes a pass through entity.

5 (b) A taxpayer is entitled to a credit against the taxpayer's qualified
6 state tax liability for a taxable year in the amount of the lesser of:

7 (1) the product of ten percent (10%) multiplied by the qualified
8 increased employment expenditures of the taxpayer for the
9 taxable year; or

10 (2) one thousand five hundred dollars (\$1,500) multiplied by the
11 number of qualified employees employed by the taxpayer during
12 the taxable year.

13 (c) The amount of the credit provided by this section that a taxpayer
14 uses during a particular taxable year may not exceed the taxpayer's
15 qualified state tax liability for the taxable year. If the credit provided by
16 this section exceeds the amount of that tax liability for the taxable year
17 it is first claimed, then the excess may be carried back to preceding
18 taxable years or carried over to succeeding taxable years and used as
19 a credit against the taxpayer's qualified state tax liability for those
20 taxable years. Each time that the credit is carried back to a preceding
21 taxable year or carried over to a succeeding taxable year, the amount
22 of the carryover is reduced by the amount used as a credit for that
23 taxable year. Except as provided in subsection (e), the credit provided
24 by this section may be carried forward and applied in the ten (10)
25 taxable years that succeed the taxable year in which the credit accrues.
26 The credit provided by this section may be carried back and applied in
27 the three (3) taxable years that precede the taxable year in which the
28 credit accrues.

29 (d) A credit earned by a taxpayer in a particular taxable year shall
30 be applied against the taxpayer's qualified state tax liability for that
31 taxable year before any credit carryover or carryback is applied against
32 that liability under subsection (c).

33 (e) Notwithstanding subsection (c), if a credit under this section
34 results from wages paid in a particular enterprise zone, and if that
35 enterprise zone terminates in a taxable year that succeeds the last
36 taxable year in which a taxpayer is entitled to use the credit carryover
37 that results from those wages under subsection (c), then the taxpayer
38 may use the credit carryover for any taxable year up to and including
39 the taxable year in which the enterprise zone terminates.

40 (f) A taxpayer is not entitled to a refund of any unused credit.

41 (g) A taxpayer that:

42 (1) does not own, rent, or lease real property outside of an

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enterprise zone that is an integral part of its trade or business; and
 (2) is not owned or controlled directly or indirectly by a taxpayer
 that owns, rents, or leases real property outside of an enterprise
 zone;

is exempt from the allocation and apportionment provisions of this
 section.

(h) If a pass through entity is entitled to a credit under subsection (b)
 but does not have state tax liability against which the tax credit may be
 applied, an individual who is a shareholder, partner, beneficiary, or
 member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the
 taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income
 to which the shareholder, partner, beneficiary, or member is
 entitled.

The credit provided under this subsection is in addition to a tax credit
 to which a shareholder, partner, beneficiary, or member of a pass
 through entity is entitled. However, a pass through entity and an
 individual who is a shareholder, partner, beneficiary, or member of a
 pass through entity may not claim more than one (1) credit for the
 qualified expenditure.

SECTION 15. IC 6-3-3-12, AS AMENDED BY P.L.131-2008,
 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JANUARY 1, 2010]: Sec. 12. (a) As used in this section, "account" has
 the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning
 set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set
 forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings
 plan" refers to a college choice 529 investment plan established under
 IC 21-9.

**(e) As used in this section, "contribution" means the amount of
 money directly provided to a college choice 529 education savings
 plan account by a taxpayer. A contribution does not include any of
 the following:**

**(1) Money credited to an account as a result of bonus points
 or other forms of consideration earned by the taxpayer that
 result in a transfer of money to the account.**

**(2) Money transferred from any other qualified tuition
 program under Section 529 of the Internal Revenue Code or
 from any other similar plan.**

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~~(e)~~ **(f)** As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

~~(f)~~ **(g)** As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

~~(g)~~ **(h)** As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

~~(h)~~ **(i)** As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

~~(i)~~ **(j)** A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars (\$1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

~~(j)~~ **(k)** A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

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~~(k)~~ (l) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

~~(j)~~ (m) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

~~(m)~~ (n) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

~~(n)~~ (o) Any required repayment under subsection ~~(m)~~ (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

~~(o)~~ (p) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

~~(p)~~ (q) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

(r) The department may disallow a credit under this section unless the taxpayer, at the request of the department, establishes by a preponderance of the evidence that the taxpayer who made

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the contribution giving rise to the credit did not have tax avoidance as the principal purpose of the contribution.

SECTION 16. IC 6-3-4-1.5, AS AMENDED BY P.L.131-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1.5. (a) If a professional preparer files more than one hundred (100) returns in a calendar year for persons described in section 1(1) or 1(2) of this chapter, in the immediately following calendar year the professional preparer shall file returns for persons described in section 1(1) or 1(2) of this chapter in an electronic format specified by the department.

(b) A professional preparer described in subsection (a) is not required to file a return in an electronic format if:

(1) the taxpayer or the taxpayer's spouse:

(A) claims the additional exemption for the elderly under IC 6-3-1-3.5(a)(4)(B); or

(B) has elected because of religious beliefs not to participate in the federal Social Security program; and

(2) the taxpayer requests in writing that the return not be filed in an electronic format. Returns filed by a professional preparer under this subsection shall not be used in determining the professional preparer's requirement to file returns in an electronic format.

(c) After December 31, 2010, a professional preparer who does not comply with subsection (a) is subject to a penalty of fifty dollars (\$50) for each return not filed in an electronic format, with a maximum penalty of twenty-five thousand dollars (\$25,000) per calendar year.

SECTION 17. IC 6-3-4-8.1, AS AMENDED BY P.L.211-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars (\$1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars (\$1,000).

(c) If the department determines that a withholding agent is not

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withholding, reporting, or remitting an amount of tax in accordance with this chapter, the department may require the withholding agent:

- (1) to make periodic deposits during the reporting period; and
- (2) to file an informational return with each periodic deposit.

(d) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(e) If the department determines that an entity's:

- (1) estimated monthly withholding tax remittance for the current year; or
- (2) average monthly withholding tax remittance for the preceding year;

exceeds five thousand dollars (\$5,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

(f) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return.

(f) An entity that registers to withhold taxes after December 31, 2009, is required to file the withholding tax report and remit withholding taxes electronically through the department's online tax filing program.

SECTION 18. IC 6-3-4-8.2, AS AMENDED BY P.L.91-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.2. (a) Each person in Indiana who is required under the Internal Revenue Code to withhold federal tax from winnings shall deduct and retain adjusted gross income tax at the time and in the amount described in withholding instructions issued by the department.

(b) In addition to amounts withheld under subsection (a), every person engaged in a gambling operation (as defined in IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** and making a payment in the course of the gambling operation (as defined in IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** of:

- (1) winnings (not reduced by the wager) valued at one thousand two hundred dollars (\$1,200) or more from slot machine play; or
- (2) winnings (reduced by the wager) valued at one thousand five

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hundred dollars (\$1,500) or more from a keno game;
 shall deduct and retain adjusted gross income tax at the time and in the
 amount described in withholding instructions issued by the department.
 The department's instructions must provide that amounts withheld shall
 be paid to the department before the close of the business day following
 the day the winnings are paid, actually or constructively. Slot machine
 and keno winnings from a gambling operation (as defined in
 IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** that
 are reportable for federal income tax purposes shall be treated as
 subject to withholding under this section, even if federal tax
 withholding is not required.

(c) The adjusted gross income tax due on prize money or prizes:

(1) received from a winning lottery ticket purchased under
 IC 4-30; and

(2) exceeding one thousand two hundred dollars (\$1,200) in
 value;

shall be deducted and retained at the time and in the amount described
 in withholding instructions issued by the department, even if federal
 withholding is not required.

(d) In addition to the amounts withheld under subsection (a), a
 qualified organization (as defined in IC 4-32.2-2-24(a)) that awards a
 prize under IC 4-32.2 exceeding one thousand two hundred dollars
 (\$1,200) in value shall deduct and retain adjusted gross income tax at
 the time and in the amount described in withholding instructions issued
 by the department. The department's instructions must provide that
 amounts withheld shall be paid to the department before the close of
 the business day following the day the winnings are paid, actually or
 constructively.

SECTION 19. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007,
 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel"
 means:

(1) methanol, denatured ethanol, and other alcohols;

(2) mixtures containing eighty-five percent (85%) or more by
 volume of methanol, denatured ethanol, and other alcohols with
 gasoline or other fuel;

(3) natural gas;

(4) liquefied petroleum gas;

(5) hydrogen;

(6) coal-derived liquid fuels;

(7) non-alcohol fuels derived from biological material;

(8) P-Series fuels; ~~or~~

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(9) electricity; or

(10) biodiesel or diesel fuel.

SECTION 20. IC 6-3.5-1.1-9, AS AMENDED BY P.L.146-2008, SECTION 327, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the ~~department, after reviewing the recommendation of the~~ budget agency determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted ~~(as determined after review of the recommendation of the budget agency)~~ for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the ~~department, after reviewing the recommendation of the~~ budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The ~~department~~ **budget agency** shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor, **the department**, and to the department of local government finance not later than September 1 of

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each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

(c) The ~~department~~ **budget agency** shall certify an amount less than the amount determined under subsection (b) if the ~~department, after reviewing the recommendation of the~~ budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The ~~department after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

- (1) initially imposes the county adjusted gross income tax; or
- (2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the ~~department~~ **budget agency** makes a certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

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(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the ~~department~~ **budget agency** shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

SECTION 21. IC 6-3.5-1.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21. Before October 2 of each year, the ~~department~~ **budget agency** shall submit a report to each county auditor indicating the balance in the county's adjusted gross income tax account as of the cutoff date specified by the budget agency.

SECTION 22. IC 6-3.5-1.1-21.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21.1. (a) If ~~after receiving a recommendation from the budget agency the department~~ determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the ~~recommendation~~, **determination**, to make certified distributions to the county in the ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated and, subject to subsection (d), used in the same manner as certified distributions.

(c) A determination under this section must be made before October 2.

(d) This subsection applies to that part of a distribution made under this section that is allocated and available for use in the same manner as certified shares. The civil taxing unit receiving the money shall deposit the money in the civil taxing unit's rainy day fund established under IC 36-1-8-5.1.

SECTION 23. IC 6-3.5-1.5-1, AS AMENDED BY P.L.146-2008, SECTION 334, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) The department of local government finance and the ~~department of state revenue budget~~

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agency shall, before July 1 of each year, jointly calculate the county adjusted income tax rate or county option income tax rate (as applicable) that must be imposed in a county to raise income tax revenue in the following year equal to the sum of the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all civil taxing units in the county for the ensuing calendar year (before any adjustment under IC 6-1.1-18.5-3(g) or IC 6-1.1-18.5-3(h) for the ensuing calendar year); minus

(2) the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all civil taxing units in the county for the current calendar year.

In the case of a civil taxing unit that is located in more than one (1) county, the department of local government finance shall, for purposes of making the determination under this subdivision, apportion the civil taxing unit's maximum permissible ad valorem property tax levy among the counties in which the civil taxing unit is located.

STEP TWO: This STEP applies only to property taxes first due and payable before January 1, 2009. Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the family and children property tax levy that will be imposed by the county under IC 12-19-7-4 for the ensuing calendar year (before any adjustment under IC 12-19-7-4(b) for the ensuing calendar year); minus

(2) the county's family and children property tax levy imposed by the county under IC 12-19-7-4 for the current calendar year.

STEP THREE: This STEP applies only to property taxes first due and payable before January 1, 2009. Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the children's psychiatric residential treatment services property tax levy that will be imposed by the county under IC 12-19-7.5-6 for the ensuing calendar year (before any adjustment under IC 12-19-7.5-6(b) for the ensuing calendar year); minus

(2) the children's psychiatric residential treatment services property tax imposed by the county under IC 12-19-7.5-6 for the current calendar year.

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STEP FOUR: Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the ensuing calendar year (before any adjustment under IC 12-29-2-2(c) for the ensuing calendar year); minus

(2) the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the current calendar year.

(b) In the case of a county that wishes to impose a tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the department of local government finance and the ~~department of state revenue~~ **budget agency** shall jointly estimate the amount that will be calculated under subsection (a) in the second year after the tax rate is first imposed. The department of local government finance and the ~~department of state revenue~~ **budget agency** shall calculate the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) that must be imposed in the county in the second year after the tax rate is first imposed to raise income tax revenue equal to the estimate under this subsection.

(c) The ~~department~~ **budget agency** and the department of local government finance shall make the calculations under subsections (a) and (b) based on the best information available at the time the calculation is made.

(d) Notwithstanding IC 6-3.5-1.1-24(h) and IC 6-3.5-6-30(h), if a county has adopted an income tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 to replace property tax levy growth, the part of the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 that was used before January 1, 2009, to reduce levy growth in the county family and children's fund property tax levy and the children's psychiatric residential treatment services property tax levy shall instead be used for property tax relief in the same manner that a tax rate under IC 6-3.5-1.1-26 or IC 6-3.5-6-30 is used for property tax relief.

SECTION 24. IC 6-3.5-1.5-3, AS ADDED BY P.L.224-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. The department of local government finance and the ~~department of state revenue~~ **budget agency** may take any actions necessary to carry out the purposes of this chapter.

SECTION 25. IC 6-3.5-6-17, AS AMENDED BY P.L.146-2008, SECTION 338, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner

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prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the ~~department~~, after reviewing the recommendation of the budget agency determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made; as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the ~~department~~, after reviewing the recommendation of the budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

- (1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;
- (2) adjustments for over distributions in prior years;
- (3) adjustments for clerical or mathematical errors in prior years;
- (4) adjustments for tax rate changes; and
- (5) the amount of excess account balances to be distributed under IC 6-3.5-6-17.3.

The ~~department~~ **budget agency** shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

(c) The ~~department~~ **budget agency** shall certify an amount less than the amount determined under subsection (b) if the ~~department~~, after

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1 reviewing the recommendation of the budget agency determines that
 2 the reduced distribution is necessary to offset overpayments made in a
 3 calendar year before the calendar year of the distribution. The
 4 ~~department, after reviewing the recommendation of the~~ budget agency
 5 may reduce the amount of the certified distribution over several
 6 calendar years so that any overpayments are offset over several years
 7 rather than in one (1) lump sum.

8 (d) The ~~department, after reviewing the recommendation of the~~
 9 budget agency shall adjust the certified distribution of a county to
 10 correct for any clerical or mathematical errors made in any previous
 11 certification under this section. The ~~department, after reviewing the~~
 12 ~~recommendation of the~~ budget agency may reduce the amount of the
 13 certified distribution over several calendar years so that any adjustment
 14 under this subsection is offset over several years rather than in one (1)
 15 lump sum.

16 (e) This subsection applies to a county that:

- 17 (1) initially imposed the county option income tax; or
- 18 (2) increases the county option income tax rate;

19 under this chapter in the same calendar year in which the ~~department~~
 20 **budget agency** makes a certification under this section. The
 21 ~~department, after reviewing the recommendation of the~~ budget agency
 22 shall adjust the certified distribution of a county to provide for a
 23 distribution in the immediately following calendar year and in each
 24 calendar year thereafter. The ~~department~~ **budget agency** shall provide
 25 for a full transition to certification of distributions as provided in
 26 subsection (a)(1) through (a)(2) in the manner provided in subsection
 27 (c).

28 (f) This subsection applies in the year a county initially imposes a
 29 tax rate under section 30 of this chapter. Notwithstanding any other
 30 provision, the ~~department~~ **budget agency** shall adjust the part of the
 31 county's certified distribution that is attributable to the tax rate under
 32 section 30 of this chapter to provide for a distribution in the
 33 immediately following calendar year equal to the result of:

- 34 (1) the sum of the amounts determined under STEP ONE through
- 35 STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county
- 36 initially imposes a tax rate under section 30 of this chapter;
- 37 multiplied by

- 38 (2) the following:

39 (A) In a county containing a consolidated city, one and
 40 five-tenths (1.5).

41 (B) In a county other than a county containing a consolidated
 42 city, two (2).

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(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 26. IC 6-3.5-6-17.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.2. Before October 2 of each year, the ~~department~~ **budget agency** shall submit a report to each county auditor indicating the balance in the county's special account as of the cutoff date set by the budget agency.

SECTION 27. IC 6-3.5-6-17.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after receiving a recommendation from~~ the budget agency ~~the department~~ determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the ~~recommendation~~; **determination**, to make certified distributions to the county in the ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

SECTION 28. IC 6-3.5-6-27, AS ADDED BY P.L.214-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 27. (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:

- (1) underemployment in relation to similarly situated counties; and
- (2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.

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Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate

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1 under this section and in each calendar year thereafter. The ~~department~~
 2 **budget agency** shall provide for a full transition to certification of
 3 distributions as provided in section 17(a)(1) through 17(a)(2) of this
 4 chapter in the manner provided in section 17(c) of this chapter.

5 SECTION 29. IC 6-3.5-6-28, AS AMENDED BY P.L.224-2007,
 6 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2010]: Sec. 28. (a) This section applies only to Howard
 8 County.

9 (b) Maintaining low property tax rates is essential to economic
 10 development, and the use of county option income tax revenues as
 11 provided in this section and as needed in the county to fund the
 12 operation and maintenance of a jail and juvenile detention center,
 13 rather than the use of property taxes, promotes that purpose.

14 (c) In addition to the rates permitted by sections 8 and 9 of this
 15 chapter, the county fiscal body may impose a county option income tax
 16 at a rate that does not exceed twenty-five hundredths percent (0.25%)
 17 on the adjusted gross income of resident county taxpayers. The tax rate
 18 may be adopted in any increment of one hundredth percent (0.01%).
 19 Before the county fiscal body may adopt a tax rate under this section,
 20 the county fiscal body must make the finding and determination set
 21 forth in subsection (d). Section 8(e) of this chapter applies to the
 22 application of the additional tax rate to nonresident taxpayers.

23 (d) In order to impose the county option income tax as provided in
 24 this section, the county fiscal body must adopt an ordinance:

- 25 (1) finding and determining that revenues from the county option
 26 income tax are needed in the county to fund the operation and
 27 maintenance of a jail, a juvenile detention center, or both; and
- 28 (2) agreeing to freeze the part of any property tax levy imposed in
 29 the county for the operation of the jail or juvenile detention
 30 center, or both, covered by the ordinance at the rate imposed in
 31 the year preceding the year in which a full year of additional
 32 county option income tax is certified for distribution to the county
 33 under this section for the term in which an ordinance is in effect
 34 under this section.

35 (e) If the county fiscal body makes a determination under subsection
 36 (d), the county fiscal body may adopt a tax rate under subsection (c).
 37 Subject to the limitations in subsection (c), the county fiscal body may
 38 amend an ordinance adopted under this section to increase, decrease,
 39 or rescind the additional tax rate imposed under this section. As soon
 40 as practicable after the adoption of an ordinance under this section, the
 41 county fiscal body shall send a certified copy of the ordinance to the
 42 county auditor, the department of local government finance, and the

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department of state revenue. An ordinance adopted under this section before April 1 in a year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after March 31 of a year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(f) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section; and

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

(h) The department of local government finance shall enforce an agreement under subsection (d)(2).

(i) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

(j) The department shall separately designate a tax rate imposed under this section in any tax form as the Howard County jail operating and maintenance income tax.

SECTION 30. IC 6-3.5-6-29, AS AMENDED BY P.L.224-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 29. (a) This section applies only to Scott County. Scott County is a county in which:

(1) maintaining low property tax rates is essential to economic development; and

(2) the use of additional county option income tax revenues as provided in this section, rather than the use of property taxes, to fund:

(A) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail

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1 facilities; and

2 (B) the repayment of bonds issued or leases entered into for
3 the purposes described in clause (A), except operation or
4 maintenance;

5 promotes the purpose of maintaining low property tax rates.

6 (b) The county fiscal body may impose the county option income tax
7 on the adjusted gross income of resident county taxpayers at a rate, in
8 addition to the rates permitted by sections 8 and 9 of this chapter, not
9 to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this
10 chapter applies to the application of the additional rate to nonresident
11 taxpayers.

12 (c) To impose the county option income tax as provided in this
13 section, the county fiscal body must adopt an ordinance finding and
14 determining that additional revenues from the county option income tax
15 are needed in the county to fund:

16 (1) the financing, construction, acquisition, improvement,
17 renovation, equipping, operation, or maintenance of jail facilities;
18 and

19 (2) the repayment of bonds issued or leases entered into for the
20 purposes described in subdivision (1), except operation or
21 maintenance.

22 (d) If the county fiscal body makes a determination under subsection
23 (c), the county fiscal body may adopt an additional tax rate under
24 subsection (b). Subject to the limitations in subsection (b), the county
25 fiscal body may amend an ordinance adopted under this section to
26 increase, decrease, or rescind the additional tax rate imposed under this
27 section. As soon as practicable after the adoption of an ordinance under
28 this section, the county fiscal body shall send a certified copy of the
29 ordinance to the county auditor, the department of local government
30 finance, and the department. An ordinance adopted under this section
31 before June 1, 2006, or August 1 in a subsequent year applies to the
32 imposition of county income taxes after June 30 (in the case of an
33 ordinance adopted before June 1, 2006) or September 30 (in the case
34 of an ordinance adopted in 2007 or thereafter) in that year. An
35 ordinance adopted under this section after May 31, 2006, or July 31 of
36 a subsequent year initially applies to the imposition of county option
37 income taxes after June 30 (in the case of an ordinance adopted before
38 June 1, 2006) or September 30 (in the case of an ordinance adopted in
39 2007 or thereafter) of the immediately following year.

40 (e) If the county imposes an additional tax rate under this section,
41 the county treasurer shall establish a county jail revenue fund to be
42 used only for the purposes described in this section. County option

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1 income tax revenues derived from the tax rate imposed under this
 2 section shall be deposited in the county jail revenue fund before
 3 making a certified distribution under section 18 of this chapter.

4 (f) County option income tax revenues derived from an additional
 5 tax rate imposed under this section:

- 6 (1) may be used only for the purposes described in this section;
- 7 (2) may not be considered by the department of local government
 8 finance in determining the county's maximum permissible
 9 property tax levy limit under IC 6-1.1-18.5; and
- 10 (3) may be pledged for the repayment of bonds issued or leases
 11 entered into to fund the purposes described in subsection (c)(1),
 12 except operation or maintenance.

13 (g) If the county imposes an additional tax rate under this section,
 14 the ~~department, after reviewing the recommendation of the~~ budget
 15 agency shall adjust the certified distribution of the county to provide
 16 for an increased distribution of taxes in the immediately following
 17 calendar year after the county adopts the increased tax rate and in each
 18 calendar year thereafter. The ~~department~~ **budget agency** shall provide
 19 for a full transition to certification of distributions as provided in
 20 section 17(a)(1) through 17(a)(2) of this chapter in the manner
 21 provided in section 17(c) of this chapter.

22 SECTION 31. IC 6-3.5-6-33, AS ADDED BY P.L.224-2007,
 23 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JANUARY 1, 2010]: Sec. 33. (a) This section applies only to Monroe
 25 County.

26 (b) Maintaining low property tax rates is essential to economic
 27 development, and the use of county option income tax revenues as
 28 provided in this chapter and as needed in the county to fund the
 29 operation and maintenance of a juvenile detention center and other
 30 facilities to provide juvenile services, rather than the use of property
 31 taxes, promotes that purpose.

32 (c) In addition to the rates permitted by sections 8 and 9 of this
 33 chapter, the county fiscal body may impose an additional county option
 34 income tax at a rate of not more than twenty-five hundredths percent
 35 (0.25%) on the adjusted gross income of resident county taxpayers if
 36 the county fiscal body makes the finding and determination set forth in
 37 subsection (d). Section 8(e) of this chapter applies to the application of
 38 the additional rate to nonresident taxpayers.

39 (d) In order to impose the county option income tax as provided in
 40 this section, the county fiscal body must adopt an ordinance:

- 41 (1) finding and determining that revenues from the county option
 42 income tax are needed in the county to fund the operation and

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1 maintenance of a juvenile detention center and other facilities
2 necessary to provide juvenile services; and

3 (2) agreeing to freeze for the term in which an ordinance is in
4 effect under this section the part of any property tax levy imposed
5 in the county for the operation of the juvenile detention center and
6 other facilities covered by the ordinance at the rate imposed in the
7 year preceding the year in which a full year of additional county
8 option income tax is certified for distribution to the county under
9 this section.

10 (e) If the county fiscal body makes a determination under subsection
11 (d), the county fiscal body may adopt a tax rate under subsection (c).
12 Subject to the limitations in subsection (c), the county fiscal body may
13 amend an ordinance adopted under this section to increase, decrease,
14 or rescind the additional tax rate imposed under this section. As soon
15 as practicable after the adoption of an ordinance under this section, the
16 county fiscal body shall send a certified copy of the ordinance to the
17 county auditor, the department of local government finance, and the
18 department of state revenue. An ordinance adopted under this section
19 before August 1 in a year applies to the imposition of county income
20 taxes after September 30 in that year. An ordinance adopted under this
21 section after July 31 of a year initially applies to the imposition of
22 county option income taxes after September 30 of the immediately
23 following year.

24 (f) The county treasurer shall establish a county juvenile detention
25 center revenue fund to be used only for the purposes described in this
26 section. County option income tax revenues derived from the tax rate
27 imposed under this section shall be deposited in the county juvenile
28 detention center revenue fund before a certified distribution is made
29 under section 18 of this chapter.

30 (g) County option income tax revenues derived from the tax rate
31 imposed under this section:

32 (1) may be used only for the purposes described in this section;
33 and

34 (2) may not be considered by the department of local government
35 finance in determining the county's maximum permissible
36 property tax levy limit under IC 6-1.1-18.5.

37 (h) The department of local government finance shall enforce an
38 agreement made under subsection (d)(2).

39 (i) The ~~department, after reviewing the recommendation of the~~
40 budget agency shall adjust the certified distribution of a county to
41 provide for an increased distribution of taxes in the immediately
42 following calendar year after the county adopts an increased tax rate

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under this section and in each calendar year thereafter. The ~~department~~
budget agency shall provide for a full transition to certification of
distributions as provided in section 17(a)(1) through 17(a)(2) of this
chapter in the manner provided in section 17(c) of this chapter.

SECTION 32. IC 6-3.5-7-11, AS AMENDED BY P.L.146-2008,
SECTION 345, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2010]: Sec. 11. (a) Revenue derived from
the imposition of the county economic development income tax shall,
in the manner prescribed by this section, be distributed to the county
that imposed it.

(b) Before August 2 of each calendar year, the ~~department, after~~
~~reviewing the recommendation of the~~ budget agency shall certify to the
county auditor of each adopting county the sum of the amount of
county economic development income tax revenue that the ~~department~~
budget agency determines has been:

- (1) received from that county for a taxable year ending before the
calendar year in which the determination is made; and
- (2) reported on an annual return or amended return processed by
the department in the state fiscal year ending before July 1 of the
calendar year in which the determination is made;

as adjusted ~~(as determined after review of the recommendation of the~~
~~budget agency)~~ for refunds of county economic development income
tax made in the state fiscal year plus the amount of interest in the
county's account that has been accrued and has not been included in a
certification made in a preceding year. The amount certified is the
county's certified distribution, which shall be distributed on the dates
specified in section 16 of this chapter for the following calendar year.
The amount certified shall be adjusted under subsections (c), (d), (e),
(f), and (g). The budget agency shall provide the county council with
an informative summary of the calculations used to determine the
certified distribution. The summary of calculations must include:

- (1) the amount reported on individual income tax returns
processed by the department during the previous fiscal year;
- (2) adjustments for over distributions in prior years;
- (3) adjustments for clerical or mathematical errors in prior years;
- (4) adjustments for tax rate changes; and
- (5) the amount of excess account balances to be distributed under
IC 6-3.5-7-17.3.

(c) The ~~department~~ **budget agency** shall certify an amount less than
the amount determined under subsection (b) if the ~~department, after~~
~~reviewing the recommendation of the~~ budget agency determines that
the reduced distribution is necessary to offset overpayments made in a

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1 calendar year before the calendar year of the distribution. The
 2 ~~department, after reviewing the recommendation of the~~ budget agency
 3 may reduce the amount of the certified distribution over several
 4 calendar years so that any overpayments are offset over several years
 5 rather than in one (1) lump sum.

6 (d) ~~After reviewing the recommendation of~~ The budget agency ~~the~~
 7 ~~department~~ shall adjust the certified distribution of a county to correct
 8 for any clerical or mathematical errors made in any previous
 9 certification under this section. The ~~department, after reviewing the~~
 10 ~~recommendation of the~~ budget agency may reduce the amount of the
 11 certified distribution over several calendar years so that any adjustment
 12 under this subsection is offset over several years rather than in one (1)
 13 lump sum.

14 (e) The ~~department, after reviewing the recommendation of the~~
 15 budget agency shall adjust the certified distribution of a county to
 16 provide the county with the distribution required under section 16(b)
 17 of this chapter.

18 (f) The ~~department, after reviewing the recommendation of the~~
 19 budget agency shall adjust the certified distribution of a county to
 20 provide the county with the amount of any tax increase imposed under
 21 section 25 or 26 of this chapter to provide additional homestead credits
 22 as provided in those provisions.

23 (g) This subsection applies to a county that:

24 (1) initially imposed the county economic development income
 25 tax; or

26 (2) increases the county economic development income rate;
 27 under this chapter in the same calendar year in which the ~~department~~
 28 **budget agency** makes a certification under this section. The
 29 ~~department, after reviewing the recommendation of the~~ budget agency
 30 shall adjust the certified distribution of a county to provide for a
 31 distribution in the immediately following calendar year and in each
 32 calendar year thereafter. The ~~department~~ **budget agency** shall provide
 33 for a full transition to certification of distributions as provided in
 34 subsection (b)(1) through (b)(2) in the manner provided in subsection
 35 (c).

36 SECTION 33. IC 6-3.5-7-17.3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after~~
 38 ~~receiving a recommendation from~~ the budget agency ~~the department~~
 39 determines that a sufficient balance exists in a county account in excess
 40 of the amount necessary, when added to other money that will be
 41 deposited in the account after the date of the ~~recommendation,~~
 42 **determination**, to make certified distributions to the county in the

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ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

SECTION 34. IC 6-4.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The inheritance tax imposed as a result of a decedent's death is a lien on the property transferred by the decedent. Except as otherwise provided in IC 6-4.1-6-6(b), the inheritance tax accrues and the lien attaches at the time of the decedent's death. The lien terminates when the inheritance tax is paid, when IC 6-4.1-4-0.5 provides for the termination of the lien, or ~~five (5)~~ **ten (10)** years after the date of the decedent's death, whichever occurs first. In addition to the lien, the transferee of the property and any personal representative or trustee who has possession of or control over the property are personally liable for the inheritance tax.

SECTION 35. IC 6-4.1-10-1, AS AMENDED BY P.L.211-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person may file with the department of state revenue a claim for the refund of inheritance or Indiana estate tax which has been erroneously or illegally collected. Except as provided in section 2 of this chapter, the person must file the claim within three (3) years after the tax is paid or within one (1) year after the tax is finally determined, whichever is later.

(b) The amount of the refund that a person is entitled to receive under this chapter equals the amount of the erroneously or illegally collected tax, plus interest calculated as specified in subsection (c).

(c) If a tax payment that has been erroneously or illegally collected is not refunded within ninety (90) days after **the later of** the date on which:

(1) the refund claim is filed with the department of state revenue;

or

(2) **the inheritance tax return is received by the department of state revenue;**

interest accrues at the rate of six percent (6%) per annum computed from the date ~~the refund claim is filed~~ **under subdivision (1) or (2), whichever applies**, until the tax payment is refunded.

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SECTION 36. IC 6-6-1.1-606.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 606.5. (a) Every person included within the terms of section 606(a) and 606(c) of this chapter shall register with the administrator before engaging in those activities. The administrator shall issue a transportation license to a person who registers with the administrator under this section.

(b) Every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways in Indiana for purposes other than use and consumption by that person may not make a delivery of that gasoline to any person in Indiana other than a licensed distributor except:

(1) when the tax imposed by this chapter on the receipt of the transported gasoline was charged and collected by the parties; and

(2) under the circumstances described in section 205 of this chapter.

(c) Every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle upon the highways of Indiana for purposes other than use and consumption by that person may not, on the journey carrying that gasoline to points outside Indiana, make delivery of that fuel to any person in Indiana.

(d) Every transporter of gasoline included within the terms of section 606(a) and ~~section~~ 606(c) of this chapter who transports gasoline upon the highways of Indiana for purposes other than use and consumption by that person shall at the time of registration and on an annual basis list with the administrator a description of all vehicles, including the vehicles' license numbers, to be used on the highways of Indiana in transporting gasoline from:

(1) points outside Indiana to points inside Indiana; and

(2) points inside Indiana to points outside Indiana.

(e) The description that subsection (d) requires shall contain the information that is reasonably required by the administrator including the carrying capacity of the vehicle. When the vehicle is a tractor-trailer type, the trailer is the vehicle to be described. When additional vehicles are placed in service or when a vehicle previously listed is retired from service during the year, the administrator shall be notified within ten (10) days of the change so that the listing of the vehicles may be kept accurate.

(f) A distributor's or an Indiana transportation license is required for a person or the person's agent acting in the person's behalf to operate a vehicle for the purpose of delivering gasoline within the boundaries of Indiana when the vehicle has a total tank capacity of at least eight hundred fifty (850) gallons.

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(g) The operator of a vehicle to which this section applies shall at all times when engaged in the transporting of gasoline on the highways have with the vehicle an invoice or manifest showing the origin, quantity, nature, and destination of the gasoline that is being transported.

(h) The department shall provide for relief if a shipment of gasoline is legitimately diverted from the represented destination state after the shipping paper has been issued by a terminal operator or if a terminal operator failed to cause proper information to be printed on the shipping paper. Provisions for relief under this subsection:

(1) must require that the shipper or its agent provide notification to the department before a diversion or correction if an intended diversion or correction is to occur; and

(2) must be consistent with the refund provisions of this chapter.

SECTION 37. IC 6-6-2.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) The tax on special fuel received by a licensed supplier in Indiana that is imposed by section 28 of this chapter shall be collected and remitted to the state by the supplier who receives taxable gallons in accordance with subsection (b).

(b) On or before the fifteenth day of each month, licensed suppliers and licensed permissive suppliers shall make an estimated payment of all taxes imposed on transactions that occurred during the previous calendar month equal to:

(1) one hundred percent (100%) of the amount remitted by the licensed supplier or licensed permissive supplier for the month preceding the previous calendar month; or

(2) ninety-five percent (95%) of the amount actually due and payable by the licensed supplier or licensed permissive supplier for the previous month.

Any remaining tax imposed on transactions occurring during a calendar month shall be due and payable on or before the twentieth day of the following month, except as provided in subsection (i). Underpayments of estimated taxes due and owing the department are not subject to a penalty under section 63(a) of this chapter.

(c) A supplier who sells special fuel shall collect from the purchaser the special fuel tax imposed under section 28 of this chapter. At the election of an eligible purchaser, the seller shall not require a payment of special fuel tax from the purchaser at a time that is earlier than the date on which the tax is required to be remitted by the supplier under

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1 subsection (b). This election shall be subject to a condition that the
 2 eligible purchaser's remittances of all amounts of tax due the seller
 3 shall be paid by electronic funds transfer on or before the due date of
 4 the remittance by the supplier to the department, and the eligible
 5 purchaser's election under this subsection may be terminated by the
 6 seller if the eligible purchaser does not make timely payments to the
 7 seller as required by this subsection.

8 (d) As used in this section, "eligible purchaser" means a person who
 9 has authority from the department to make the election under
 10 subsection (c) and includes every person who is licensed and in good
 11 standing as a special fuel dealer or special fuel user, as determined by
 12 the department, as of July 1, 1993, who has purchased a minimum of
 13 two hundred forty thousand (240,000) taxable gallons of special fuel
 14 each year in the preceding two (2) years, or who otherwise meets the
 15 financial responsibility and bonding requirements of subsection (e).

16 (e) Each purchaser that desires to make an election under subsection
 17 (c) shall present evidence of the purchaser's eligible purchaser status
 18 to the purchaser's seller. The department shall determine whether the
 19 purchaser is an eligible purchaser. The department may require a
 20 purchaser that pays the tax to a supplier to file with the department a
 21 surety bond payable to the state, upon which the purchaser is the
 22 obligor or other financial security, in an amount satisfactory to the
 23 department. The department may require that the bond indemnify the
 24 department against bad debt deductions claimed by the supplier under
 25 subsection (g).

26 (f) The department shall have the authority to rescind a purchaser's
 27 eligibility and election to defer special fuel tax remittances upon a
 28 showing of good cause, including failure to make timely payment under
 29 subsection (c), by sending written notice to all suppliers and eligible
 30 purchasers. The department may require further assurance of the
 31 purchaser's financial responsibility, or may increase the bond
 32 requirement for that purchaser, or any other action that the department
 33 may require to ensure remittance of the special fuel tax.

34 (g) In computing the amount of special fuel tax due, the supplier and
 35 permissive supplier shall be entitled to a deduction from the tax
 36 payable the amount of tax paid by the supplier that has become
 37 uncollectible from a purchaser. The department shall adopt rules
 38 establishing the evidence a supplier must provide to receive the
 39 deduction. The deduction shall be claimed on the first return following
 40 the date of the failure of the purchaser if the payment remains unpaid
 41 as of the filing date of that return or the deduction shall be disallowed.
 42 The claim shall identify the defaulting purchaser and any tax liability

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that remains unpaid. If a purchaser fails to make a timely payment of the amount of tax due, the supplier's deduction shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser for a period of ten (10) days following the date of failure to pay. No additional deduction shall be allowed until the department has authorized the purchaser to make a new election under subsection (e). The department may require the deduction to be reported in the same manner as prescribed in Section 166 of the Internal Revenue Code.

(h) The supplier and each reseller of special fuel is considered to be a collection agent for this state with respect to that special fuel tax, which shall be set out on all invoices and billings as a separate line item.

(i) Except as provided in subsection (e), the tax imposed by section 28 of this chapter on special fuel imported from another state shall be paid by the licensed importer who has imported the nonexempt special fuel not later than three (3) business days after ~~the earlier of:~~

~~(1) the time that the nonexempt special fuel entered into Indiana.~~

~~or~~

~~(2) the time that a valid import verification number was assigned by the department under rules and procedures adopted by the department.~~

However, if the importer and the importer's reseller have previously entered into a tax precollection agreement as described in subsection (j), and the agreement remains in effect, the supplier with whom the agreement has been made shall become jointly liable with the importer for the tax and shall remit the tax to the department on behalf of the importer. This subsection does not apply to an importer with respect to imports in vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(j) The department, a licensed importer, the reseller to a licensed importer, and a licensed supplier or permissive supplier may jointly enter into an agreement for the licensed supplier or permissive supplier to precollect and remit the tax imposed by this chapter with respect to special fuel imported from a terminal outside of Indiana in the same manner and at the same time as the tax would arise and be paid under this chapter if the special fuel had been received by the licensed supplier or permissive supplier at a terminal in Indiana. If the supplier is also the importer, the agreement shall be entered into between the supplier and the department. However, any licensed supplier or permissive supplier may make an election with the department to treat all out-of-state terminal removals with an Indiana destination as shown on the terminal-issued shipping paper as if the removals were received

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by the supplier in Indiana pursuant to section 28 of this chapter and subsection (a), for all purposes. In this case, the election and notice of the election to a supplier's customers shall operate instead of a three (3) party precollection agreement. The department may impose requirements reasonably necessary for the enforcement of this subsection.

(k) Each licensed importer who is liable for the tax imposed by this chapter on nonexempt special fuel imported by a fuel transport truck having less than five thousand four hundred (5,400) gallons capacity, for which tax has not previously been paid to a supplier, shall remit the special fuel tax for the preceding month's import activities with the importer's monthly report of activities. A licensed importer shall be allowed to retain two-thirds (2/3) of the collection allowance provided for in section 37(a) of this chapter for the tax timely remitted by the importer directly to the state, subject to the same pass through provided for in section 37(a) of this chapter.

(l) A licensed importer shall be allowed to retain two-thirds (2/3) of the amount allowed in section 37(a) of this chapter of the tax timely remitted by the licensed importer directly to the state, subject to the same pass through provided for in section 37(a) of this chapter.

SECTION 38. IC 6-6-2.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) Each supplier engaged in business in Indiana as a supplier shall first obtain a supplier's license. The fee for a supplier's license shall be five hundred dollars (\$500).

(b) Any person who desires to collect the tax imposed by this chapter as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of Indiana for any other purpose than administration and enforcement of this chapter. The fee for a permissive supplier's license is fifty dollars (\$50).

(c) Each terminal operator other than a supplier licensed under subsection (a) engaged in business in Indiana as a terminal operator shall first obtain a terminal operator's license for each terminal site. The fee for a terminal operator's license is three hundred dollars (\$300).

(d) Each exporter engaged in business in Indiana as an exporter shall first obtain an exporter's license. However, in order to obtain a license to export special fuel from Indiana to another specified state, a person shall be licensed either to collect and remit special fuel taxes or be licensed to deal in tax free special fuel in that other specified state

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of destination. The fee for an exporter's license is two hundred dollars (\$200).

(e) Each person who is not licensed as a supplier shall obtain a transporter's license before transporting special fuel by whatever manner from a point outside Indiana to a point inside Indiana, or from a point inside Indiana to a point outside Indiana, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce. The registration fee for a transporter's license is fifty dollars (\$50).

(f) Each person who wishes to cause special fuel to be delivered into Indiana on the person's own behalf, for the person's own account, or for resale to an Indiana purchaser, from another state in a fuel transport vehicle having a capacity of more than five thousand four hundred (5,400) gallons, or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make an application for and obtain an importer's license. The fee for an importer's license is two hundred dollars (\$200). This subsection does not apply to a person who imports special fuel that is exempt because the special fuel has been dyed or marked, or both, in accordance with section 31 of this chapter. This subsection does not apply to a person who imports nonexempt special fuels meeting the following conditions:

(1) The special fuel is subject to one (1) or more tax precollection agreements with suppliers as provided in section 35 of this chapter.

(2) The special fuel tax precollection by the supplier is expressly evidenced on the terminal-issued shipping paper as specifically provided in section 62(e)(2) of this chapter.

(g) A person desiring to import special fuel to an Indiana destination who does not enter into an agreement to prepay Indiana special fuel tax to a supplier or permissive supplier under section 35 of this chapter on the imports must ~~do the following~~:

~~(1) obtain a valid license under subsection (f).~~

~~(2) Obtain an import verification number from the department not earlier than twenty-four (24) hours before entering the state with each import, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.~~

~~(3) Display a proper import verification number on the shipping document, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.~~

(h) The department may require a person that wants to blend special fuel to first obtain a license from the department. The department may establish reasonable requirements for the proper enforcement of this

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subsection, including the following:

(1) Guidelines under which a person may be required to obtain a license.

(2) A requirement that a licensee file reports in the form and manner required by the department.

(3) A requirement that a licensee meet the bonding requirements specified by the department.

(i) The department may require a person that:

(1) is subject to the special fuel tax under this chapter;

(2) qualifies for a federal diesel fuel tax exemption under Section 4082 of the Internal Revenue Code; and

(3) is purchasing red dyed low sulfur diesel fuel;

to register with the department as a dyed fuel user. The department may establish reasonable requirements for the proper enforcement of this subsection, including guidelines under which a person may be required to register and the form and manner of reports a registrant is required to file.

SECTION 39. IC 6-6-2.5-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 62. (a) No person shall import, sell, use, deliver, or store in Indiana special fuel in bulk as to which dye or a marker, or both, has not been added in accordance with section 31 of this chapter, or as to which the tax imposed by this chapter has not been paid to or accrued by a licensed supplier or licensed permissive supplier as shown by a notation on a terminal-issued shipping paper subject to the following exceptions:

(1) A supplier shall be exempt from this provision with respect to special fuel manufactured in Indiana or imported by pipeline or waterborne barge and stored within a terminal in Indiana.

(2) An end user shall be exempt from this provision with respect to special fuel in a vehicle supply tank when the fuel was placed in the vehicle supply tank outside of Indiana.

(3) A licensed importer, and transporter operating on the importer's behalf, that transports in vehicles with a capacity of more than five thousand four hundred (5,400) gallons, shall be exempt from this prohibition if the importer or the transporter has met all of the following conditions:

(A) The importer or the transporter before entering onto the highways of Indiana has obtained an import verification number from the department not earlier than twenty-four (24) hours before entering Indiana.

(B) The import verification number must be set out prominently and indelibly on the face of each copy of the

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terminal-issued shipping paper carried on board the transport truck.

~~(C)~~ (A) The terminal origin and the importer's name and address must be set out prominently on the face of each copy of the terminal-issued shipping paper.

~~(D)~~ (B) The terminal-issued shipping paper data otherwise required by this chapter is present.

~~(E)~~ (C) All tax imposed by this chapter with respect to previously requested import verification number activity **(before the repeal of requirements related to import verification numbers)** on the account of the importer or the transporter has been timely remitted.

In every case, a transporter acting in good faith is entitled to rely upon representations made to the transporter by the fuel supplier or importer and when acting in good faith is not liable for the negligence or malfeasance of another person. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(b) No person shall export special fuel from Indiana unless that person has obtained an exporter's license or a supplier's license or has paid the destination state special fuel tax to the supplier and can demonstrate proof of export in the form of a destination state bill of lading. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(c) No person shall operate or maintain a motor vehicle on any public highway in Indiana with special fuel contained in the fuel supply tank for the motor vehicle that contains dye or a marker, or both, as provided under section 31 of this chapter. This provision does not apply to persons operating motor vehicles that have received fuel into their fuel tanks outside of Indiana in a jurisdiction that permits introduction of dyed or marked, or both, special fuel of that color and type into the motor fuel tank of highway vehicles or to a person that qualifies for the federal fuel tax exemption under Section 4082 of the Internal Revenue Code and that is registered with the department as a dyed fuel user. A person who knowingly:

(1) violates; or

(2) aids and abets another person in violating;

this subsection commits a Class A infraction. However, the violation is a Class A misdemeanor if the person has committed one (1) prior unrelated violation of this subsection, and a Class D felony if the person has committed more than one (1) prior unrelated violation of this subsection.

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(d) No person shall engage in any business activity in Indiana as to which a license is required by section 41 of this chapter unless the person shall have first obtained the license. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(e) No person shall operate a motor vehicle with a capacity of more than five thousand four hundred (5,400) gallons that is engaged in the shipment of special fuel on the public highways of Indiana and that is destined for a delivery point in Indiana, as shown on the terminal-issued shipping papers, without having on board a terminal-issued shipping paper indicating with respect to any special fuel purchased:

(1) under claim of exempt use, a notation describing the load or the appropriate portion of the load as Indiana tax exempt special fuel;

(2) if not purchased under a claim of exempt use, a notation describing the load or the appropriate portion thereof as Indiana taxed or pretaxed special fuel; or

(3) if imported by or on behalf of a licensed importer instead of the pretaxed notation, a valid verification number provided before entry into Indiana by the department or the department's designee or appointee, and the valid verification number may be handwritten on the shipping paper by the transporter or importer.

A person is in violation of subdivision (1) or (2) (whichever applies) if the person boards the vehicle with a shipping paper that does not meet the requirements described in the applicable subdivision (1) or (2). A person in violation of this subsection commits a Class A infraction (as defined in IC 34-28-5-4).

(f) A person may not sell or purchase any product for use in the supply tank of a motor vehicle for general highway use that does not meet ASTM standards as published in the annual Book of Standards and its supplements unless amended or modified by rules adopted by the department under IC 4-22-2. The transporter and the transporter's agent and customer have the exclusive duty to dispose of any product in violation of this section in the manner provided by federal and state law. A person who knowingly:

(1) violates; or

(2) aids and abets another in violating;

this subsection commits a Class D felony.

(g) This subsection does not apply to the following:

(1) A person that:

(A) inadvertently manipulates the dye or marker concentration

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1 of special fuel or coloration of special fuel; and
 2 (B) contacts the department within one (1) business day after
 3 the date on which the contamination occurs.
 4 (2) A person that affects the dye or marker concentration of
 5 special fuel by engaging in the blending of the fuel, if the blender:
 6 (A) collects or remits, or both, all tax due as provided in
 7 section 28(g) of this chapter;
 8 (B) maintains adequate records as required by the department
 9 to account for the fuel that is blended and its status as a
 10 taxable or exempt sale or use; and
 11 (C) is otherwise in compliance with this subsection.
 12 A person may not manipulate the dye or marker concentration of a
 13 special fuel or the coloration of special fuel after the special fuel is
 14 removed from a terminal or refinery rack for sale or use in Indiana. A
 15 person who knowingly violates or aids and abets another person to
 16 violate this subsection commits a Class D felony.
 17 (h) This subsection does not apply to a person that receives blended
 18 fuel from a person in compliance with subsection (g)(2). A person may
 19 not sell or consume special fuel if the special fuel dye or marker
 20 concentration or coloration has been manipulated, inadvertently or
 21 otherwise, after the special fuel has been removed from a terminal or
 22 refinery rack for sale or use in Indiana. A person who knowingly:
 23 (1) violates; or
 24 (2) aids and abets another to violate;
 25 this subsection commits a Class D felony.
 26 (i) A person may not engage in blending fuel for taxable use in
 27 Indiana without collecting and remitting the tax due on the untaxed
 28 portion of the fuel that is blended. A person who knowingly:
 29 (1) violates; or
 30 (2) aids and abets another to violate;
 31 this subsection commits a Class D felony.
 32 SECTION 40. IC 6-6-2.5-64 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 64. (a) If any person
 34 liable for the tax files a false or fraudulent return, there shall be added
 35 to the tax an amount equal to the tax the person evaded or attempted to
 36 evade.
 37 (b) The department shall impose a civil penalty of one thousand
 38 dollars (\$1,000) for a person's first occurrence of transporting special
 39 fuel without adequate shipping papers as required under sections 40,
 40 41(g), and 62(e) of this chapter, unless the person shall have complied
 41 with rules adopted under IC 4-22-2. Each subsequent occurrence
 42 described in this subsection is subject to a civil penalty of five thousand

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dollars (\$5,000).

(c) The department shall impose a civil penalty on the operator of a vehicle of two hundred dollars (\$200) for the initial occurrence, two thousand five hundred dollars (\$2,500) for the second occurrence, and five thousand dollars (\$5,000) for the third and each subsequent occurrence of a violation of either:

(1) the prohibition of use of dyed or marked special fuel, or both, on the Indiana public highways, except for a person that qualifies for the federal fuel tax exemption under Section 4082 of the Internal Revenue Code and that is registered with the department as a dyed fuel user; or

(2) the use of special fuel in violation of section 28(i) of this chapter.

(d) A supplier that makes sales for export to a person:

(1) who does not have an appropriate export license; or

(2) without collection of the destination state tax on special fuel nonexempt in the destination state;

shall be subject to a civil penalty equal to the amount of Indiana's special fuel tax in addition to the tax due.

(e) The department may impose a civil penalty of one thousand dollars (\$1,000) for each occurrence against every terminal operator that fails to meet shipping paper issuance requirements under section 40 of this chapter.

(f) Each importer or transporter who knowingly imports undyed or unmarked special fuel, or both, in a transport truck without:

(1) a valid importer license;

(2) a supplier license;

~~(3) an import verification number, if transporting in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons; or~~

~~(4)~~ (3) a shipping paper showing on the paper's face as required under this chapter that Indiana special fuel tax is not due;

is subject to a civil penalty of ten thousand dollars (\$10,000) for each occurrence described in this subsection.

(g) This subsection does not apply to a person if section 62(g) of this chapter does not apply to the person. A:

(1) person that manipulates the dye or marker concentration of special fuel or the coloration of special fuel after the special fuel is removed from a terminal or refinery rack for sale or use in Indiana; and

(2) person that receives the special fuel;

are jointly and severally liable for the special fuel tax due on the

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portion of untaxed fuel plus a penalty equal to the greater of one hundred percent (100%) of the tax due or one thousand dollars (\$1,000).

(h) A person that engages in blending fuel for taxable sale or use in Indiana and does not collect and remit all tax due on untaxed fuel that is blended is liable for the tax due plus a penalty that is equal to the greater of one hundred percent (100%) of the tax due or one thousand dollars (\$1,000).

SECTION 41. IC 6-6-2.5-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 65. (a) If a person is found operating a motor vehicle in violation of section 40(b), 40(c), or 62(e) of this chapter, the vehicle and its cargo is subject to impoundment, seizure, and subsequent sale, in accordance with IC 6-8.1. The failure of the operator of a motor vehicle to have on-board when loaded a terminal-issued bill of lading with a destination state machine printed on its face or which fails to meet the descriptive annotation requirements in section 40(b) ~~41(g)(2), 41(g)(3)~~, or 62(e) of this chapter, whichever may apply, shall be presumptive evidence of a violation sufficient to warrant impoundment and seizure of the vehicle and its cargo.

(b) After a person:

(1) is found in violation of section 62(c) of this chapter; and

(2) pays the tax due to the state;

the department shall issue a release to the person. The release must permit the dyed or marked special fuel, or both, that is the subject of the violation to be consumed on Indiana public highways within a grace period of twenty-four (24) hours after the time that the release is issued. After the grace period expires, the person shall be considered in violation of section 62(c) of this chapter if the person or the person's agent operates or maintains the same motor vehicle on an Indiana public highway with special fuel containing dye or a marker, or both.

SECTION 42. IC 6-6-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as authorized under section 13 of this chapter, a carrier may operate a commercial motor vehicle upon the highways in Indiana only if the carrier has been issued an annual permit, cab card, and emblem under this section.

(b) The department shall issue:

(1) an annual permit; and

(2) a cab card and an emblem for each commercial motor vehicle that will be operated by the carrier upon the highways in Indiana; to a carrier who applies for an annual permit and pays to the

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department an annual permit fee of twenty-five dollars (\$25) **not later than September 1 of the year before the annual permit is effective under subsection (c).**

(c) The annual permit, cab card, and emblem are effective from January 1 of each year through December 31 of the same year. The department may extend the expiration date of the annual permit, cab card, and emblem for no more than sixty (60) days. The annual permit, each cab card, and each emblem issued to a carrier remain the property of this state and may be suspended or revoked by the department for any violation of this chapter or of the rules concerning this chapter adopted by the department under IC 4-22-2.

(d) As evidence of compliance with this section, and for the purpose of enforcement, a carrier shall display on each commercial motor vehicle an emblem when the vehicle is being operated by the carrier in Indiana. The carrier shall affix the emblem to the vehicle in the location designated by the department. The carrier shall display in each vehicle the cab card issued by the department. The carrier shall retain the original annual permit at the address shown on the annual permit. During the month of December, the carrier shall display the cab card and emblem that are valid through December 31 or a full year cab card and emblem issued to the carrier for the ensuing twelve (12) months. If the department grants an extension of the expiration date, the carrier shall continue to display the cab card and emblem upon which the extension was granted.

(e) If a commercial motor vehicle is operated by more than one (1) carrier, as evidence of compliance with this section and for purposes of enforcement each carrier shall display in the commercial motor vehicle a reproduced copy of the carrier's annual permit when the vehicle is being operated by the carrier in Indiana.

(f) A person who fails to display an emblem required by this section on a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation without an emblem constitutes a separate infraction. Notwithstanding IC 34-28-5-4, a judgment of not less than one hundred dollars (\$100) shall be entered for each Class C infraction under this subsection.

(g) A person who displays an altered, false, or fictitious cab card required by this section in a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation with an altered, false, or fictitious cab card constitutes a separate infraction.

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SECTION 43. IC 6-6-4.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A carrier may, in lieu of paying the tax imposed under this chapter that would otherwise result from the operation of a particular commercial motor vehicle, obtain from the department a trip permit authorizing the carrier to operate the commercial motor vehicle for a period of five (5) consecutive days. The department shall specify the beginning and ending days on the face of the permit. The fee for a trip permit for each commercial motor vehicle is fifty dollars (\$50). The report otherwise required under section 10 of this chapter is not required with respect to a vehicle for which a trip permit has been issued under this subsection.

(b) The department may issue a temporary written authorization if unforeseen or uncertain circumstances require operations by a carrier of a commercial motor vehicle for which neither a trip permit described in subsection (a) nor an annual permit described in section 12 of this chapter has been obtained. A temporary authorization may be issued only if the department finds that undue hardship would result if operation under a temporary authorization were prohibited. A carrier who receives a temporary authorization shall:

(1) pay the trip permit fee at the time the temporary authorization is issued; or

(2) subsequently apply for and obtain an annual permit.

(c) A carrier may obtain an International Fuel Tax Agreement (IFTA) repair and maintenance permit to:

(1) travel from another state into Indiana to repair or maintain any of the carrier's motor vehicles, semitrailers (as defined in IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

(2) return to the same state after the repair or maintenance is completed.

The permit allows the travel described in this section. In addition to any other fee established in this chapter, and instead of paying the quarterly motor fuel tax imposed under this chapter, a carrier may pay an annual IFTA repair and maintenance fee of forty dollars (\$40) and receive an IFTA annual repair and maintenance permit. The IFTA annual repair and maintenance permit and fee applies to all of the motor vehicles operated by a carrier. The IFTA annual repair and maintenance permit is not transferable to another carrier. A carrier may not carry cargo or passengers under the IFTA annual repair and maintenance permit. All fees collected under this subsection shall be deposited in the motor carrier regulation fund (IC 8-2.1-23). The report otherwise required under section 10 of this chapter is not required with respect to a motor vehicle that is operated under an IFTA annual repair and maintenance

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1 permit.

2 (d) A carrier may obtain an International Registration Plan (IRP)
3 repair and maintenance permit to:

4 (1) travel from another state into Indiana to repair or maintain any
5 of the carrier's motor vehicles, semitrailers (as defined in
6 IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

7 (2) return to the same state after the repair or maintenance is
8 completed.

9 The permit allows the travel described in this section. In addition to any
10 other fee established in this chapter, and instead of paying apportioned
11 or temporary IRP fees under IC 9-18-2 or IC 9-18-7, a carrier may pay
12 an annual IRP repair and maintenance fee of forty dollars (\$40) and
13 receive an IRP annual repair and maintenance permit. The IRP annual
14 repair and maintenance permit and fee applies to all of the motor
15 vehicles operated by a carrier. The IRP annual repair and maintenance
16 permit is not transferable to another carrier. A carrier may not carry
17 cargo or passengers under the IRP annual repair and maintenance
18 permit. All fees collected under this subsection shall be deposited in
19 the motor carrier regulation fund (IC 8-2.1-23).

20 **(e) A person may obtain a repair and maintenance permit to:**

21 **(1) move an unregistered off-road vehicle from a quarry or**
22 **mine to a maintenance or repair facility; and**

23 **(2) return the unregistered off-road vehicle to its place of**
24 **origin.**

25 **The fee for the permit is forty dollars (\$40). The permit is an**
26 **annual permit and applies to all unregistered off-road vehicles**
27 **from the same quarry or mine.**

28 ~~(e)~~ **(f)** A carrier may obtain a repair, maintenance, and relocation
29 permit to:

30 (1) move a yard tractor from a terminal or loading or spotting
31 facility to:

32 (A) a maintenance or repair facility; or

33 (B) another terminal or loading or spotting facility; and

34 (2) return the yard tractor to its place of origin.

35 The fee for the permit is forty dollars (\$40). The permit is an annual
36 permit and applies to all yard tractors operated by the carrier. The
37 permit is not transferable to another carrier. A carrier may not carry
38 cargo or transport or draw a semitrailer or other vehicle under the
39 permit. A carrier may operate a yard tractor under the permit instead of
40 paying the tax imposed under this chapter. A yard tractor that is being
41 operated on a public highway under this subsection must display a
42 license plate issued under IC 9-18-32. As used in this section, "yard

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tractor" has the meaning set forth under IC 9-13-2-201.

(g) The department shall establish procedures, by rules adopted under IC 4-22-2, for:

- (1) the issuance and use of trip permits, temporary authorizations, and repair and maintenance permits; and
- (2) the display in commercial motor vehicles of evidence of compliance with this chapter.

SECTION 44. IC 6-6-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) Unless defined in this section, terms used in this chapter have the meaning set forth in the International Registration Plan or in IC 6-6-5 (motor vehicle excise tax). Definitions set forth in the International Registration Plan, as applicable, prevail unless given a different meaning in this section or in rules adopted under authority of this chapter. The definitions in this section apply throughout this chapter.

(b) As used in this chapter, "base revenue" means the minimum amount of commercial vehicle excise tax revenue that a taxing unit will receive in a year.

(c) As used in this chapter, "commercial vehicle" means any of the following:

- (1) An Indiana-based vehicle subject to apportioned registration under the International Registration Plan.
- (2) A vehicle subject to apportioned registration under the International Registration Plan and based and titled in a state other than Indiana subject to the conditions of the International Registration Plan.
- (3) A truck, **road tractor**, tractor, trailer, semitrailer, or truck-tractor subject to registration under IC 9-18.

(d) As used in this chapter, "declared gross weight" means the weight at which a vehicle is registered with:

- (1) the bureau; or
- (2) the International Registration Plan.

(e) As used in this chapter, "department" means the department of state revenue.

(f) As used in this chapter, "fleet" means one (1) or more apportionable vehicles.

(g) As used in this chapter, "gross weight" means the total weight of a vehicle or combination of vehicles without load, plus the weight of any load on the vehicle or combination of vehicles.

(h) As used in this chapter, "Indiana-based" means a vehicle or fleet of vehicles that is base-registered in Indiana under the terms of the International Registration Plan.

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(i) As used in this chapter, "in-state miles" means the total number of miles operated by a commercial vehicle or fleet of commercial vehicles in Indiana during the preceding year.

(j) As used in this chapter, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).

(k) As used in this chapter, "owner" means the person in whose name the commercial vehicle is registered under IC 9-18 or the International Registration Plan.

(l) As used in this chapter, "preceding year" means a period of twelve (12) consecutive months fixed by the department which shall be within the eighteen (18) months immediately preceding the commencement of the registration year for which proportional registration is sought.

(m) As used in this chapter, "road tractor" has the meaning set forth in IC 9-13-2-156.

~~(m)~~ (n) As used in this chapter, "semitrailer" has the meaning set forth in IC 9-13-2-164(a).

~~(m)~~ (o) As used in this chapter, "tractor" has the meaning set forth in IC 9-13-2-180.

~~(n)~~ (p) As used in this chapter, "trailer" has the meaning set forth in IC 9-13-2-184(a).

~~(p)~~ (q) As used in this chapter, "truck" has the meaning set forth in IC 9-13-2-188(a).

~~(q)~~ (r) As used in this chapter, "truck-tractor" has the meaning set forth in IC 9-13-2-189(a).

~~(r)~~ (s) As used in this chapter, "vehicle" means a motor vehicle, trailer, or semitrailer subject to registration under IC 9-18 as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the state.

SECTION 45. IC 6-6-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:
Sec. 7. (a) For calendar years that begin after December 31, 2000, the annual excise tax for a commercial vehicle will be determined by the motor carrier services division on or before October 1 of each year in accordance with the following formula:

STEP ONE: Determine the total amount of base revenue to be distributed from the commercial vehicle excise tax fund to all taxing units in Indiana during the calendar year for which the tax is first due and payable. For calendar year 2001, the total amount of base revenue for all taxing units shall be determined as provided in section 19 of this chapter. For calendar years that begin after December 31, 2001, **and before January 1, 2009**, the

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total amount of base revenue for all taxing units shall be determined by multiplying the previous year's base revenue for all taxing units by one hundred five percent (105%). **For calendar years that begin after December 31, 2008, the total amount of base revenue for all taxing units shall be determined as provided in section 19 of this chapter.**

STEP TWO: Determine the sum of fees paid to register the following commercial vehicles in Indiana under the following statutes during the fiscal year that ends June 30 immediately preceding the calendar year for which the tax is first due and payable:

(A) Total registration fees collected under IC 9-29-5-3 for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes;

(B) Total registration fees collected under IC 9-29-5-5 for tractors used with semitrailers;

(C) Total registration fees collected under IC 9-29-5-6 for semitrailers used with tractors;

(D) Total registration fees collected under IC 9-29-5-4 for trailers having a declared gross weight in excess of three thousand (3,000) pounds; and

(E) Total registration fees collected under IC 9-29-5-13 for trucks, tractors and semitrailers used in connection with agricultural pursuits usual and normal to the user's farming operation, multiplied by two hundred percent (200%);

STEP THREE: Determine the tax factor by dividing the STEP ONE result by the STEP TWO result.

(b) Except as otherwise provided in this chapter, the annual excise tax for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes, shall be determined by multiplying the registration fee under IC 9-29-5-3 by the tax factor determined in subsection (a).

(c) Except as otherwise provided in this chapter, the annual excise tax for tractors used with semitrailers shall be determined by multiplying the registration fee under IC 9-29-5-5 by the tax factor determined in subsection (a).

(d) Except as otherwise provided in this chapter, the annual excise tax for trailers having a declared gross weight in excess of three thousand (3,000) pounds shall be determined by multiplying the

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1 registration fee under IC 9-29-5-4 by the tax factor determined in
2 subsection (a).

3 (e) The annual excise tax for a semitrailer shall be determined by
4 multiplying the average annual registration fee under IC 9-29-5-6 by
5 the tax factor determined in subsection (a). The average annual
6 registration fee for a semitrailer under IC 9-29-5-6 is sixteen dollars
7 and seventy-five cents (\$16.75).

8 (f) The annual excise tax determined under this section shall be
9 rounded upward to the next full dollar amount.

10 SECTION 46. IC 6-6-5.5-19 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:
12 Sec. 19. (a) As used in this section, "assessed value" means an amount
13 equal to the true tax value of commercial vehicles that:

14 (1) are subject to the commercial vehicle excise tax under this
15 chapter; and

16 (2) would have been subject to assessment as personal property
17 on March 1, 2000, under the law in effect before January 1, 2000.

18 (b) For calendar year 2001, a taxing unit's base revenue shall be
19 determined as provided in subsection (f). For calendar years that begin
20 after December 31, 2001, **and before January 1, 2009**, a taxing unit's
21 base revenue shall be determined by multiplying the previous year's
22 base revenue by one hundred five percent (105%). **For calendar years**
23 **that begin after December 31, 2008, a taxing unit's base revenue is**
24 **equal to:**

25 (1) **the amount of commercial vehicle excise tax collected**
26 **during the previous state fiscal year; multiplied by**

27 (2) **the taxing unit's percentage as determined in subsection (f)**
28 **for calendar year 2001.**

29 (c) The amount of commercial vehicle excise tax distributed to the
30 taxing units of Indiana from the commercial vehicle excise tax fund
31 shall be determined in the manner provided in this section. ~~On or~~
32 ~~before June 1, 2000, each township assessor of a county shall deliver~~
33 ~~to the county assessor a list that states by taxing district the total~~
34 ~~assessed value as shown on the information returns filed with the~~
35 ~~assessor on or before May 15, 2000.~~

36 (d) On or before July 1, 2000, each county assessor shall certify to
37 the county auditor the assessed value of commercial vehicles in every
38 taxing district.

39 (e) On or before August 1, 2000, the county auditor shall certify the
40 following to the department of local government finance:

41 (1) The total assessed value of commercial vehicles in the county.

42 (2) The total assessed value of commercial vehicles in each taxing

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district of the county.

(f) The department of local government finance shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage shall be determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage shall be determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 47. IC 6-6-5.5-20, AS AMENDED BY P.L.146-2008, SECTION 354, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 20. (a) On or before May 1, subject to subsections (c) and (d), the auditor of state shall distribute to each county auditor an amount equal to fifty percent (50%) of the ~~total base revenue to be distributed to all taxing units in the county for that year.~~ **product of:**

(1) the county's distribution percentage; multiplied by

(2) the total commercial vehicle excise tax deposited in the commercial vehicle excise tax fund in the preceding calendar year.

(b) On or before December 1, subject to subsections (c) and (d), the auditor of state shall distribute to each county auditor an amount equal

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to the greater of the following:

(1) Fifty percent (50%) of the total base revenue to be distributed to all taxing units in the county for that year.

(2) The product of the county's distribution percentage multiplied by the total commercial vehicle excise tax revenue deposited in the commercial vehicle excise tax fund: **fifty percent (50%) of the product of:**

(1) the county's distribution percentage; multiplied by

(2) the total commercial vehicle excise tax deposited in the commercial vehicle excise tax fund in the preceding calendar year.

(c) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a county unit an amount for deposit in a state fund, as directed by the budget agency, equal to the result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the result of:

(A) the tax rate imposed by the county in the year for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars (\$35,000,000) from all taxing districts in the county; divided by

(B) the aggregate tax rate imposed by the county unit and, in the case of Marion County, the health and hospital corporation in the year.

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to the county under subsection (a) or (b), as appropriate, without regard to this subsection.

STEP FIVE: Determine the result of:

(A) the STEP THREE amount; multiplied by

(B) the STEP FOUR result.

(d) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a school corporation an amount for deposit in a state fund, as directed by the budget agency, equal to the result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the

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1 result of:

2 (A) the tax rate imposed by the school corporation in the year
3 for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or
4 IC 20-45-3-11 (repealed) for the school corporation's general
5 fund plus the tax rate imposed by the school corporation for
6 the school corporation's special education preschool fund;
7 divided by

8 (B) the aggregate tax rate imposed by the school corporation
9 in the year.

10 STEP TWO: Determine the sum of the results determined under
11 STEP ONE.

12 STEP THREE: Divide the STEP TWO result by three (3).

13 STEP FOUR: Determine the amount of commercial vehicle
14 excise tax that would otherwise be distributed to the school
15 corporation under subsection (a) or (b), as appropriate, without
16 regard to this subsection.

17 STEP FIVE: Determine the result of:

18 (A) the STEP FOUR amount; multiplied by

19 (B) the STEP THREE result.

20 (e) Upon receipt, the county auditor shall distribute to the taxing
21 units an amount equal to the product of the taxing unit's distribution
22 percentage multiplied by the total distributed to the county under this
23 section. The amount determined shall be apportioned and distributed
24 among the respective funds of each taxing unit in the same manner and
25 at the same time as property taxes are apportioned and distributed.

26 (f) In the event that sufficient funds are not available in the
27 commercial vehicle excise tax fund for the distributions required by
28 subsection (a) and subsection (b)(1), the auditor of state shall transfer
29 funds from the commercial vehicle excise tax reserve fund.

30 (g) The auditor of state shall, not later than July 1 of each year,
31 furnish to each county auditor an estimate of the amounts to be
32 distributed to the counties under this section during the next calendar
33 year. Before August 1, each county auditor shall furnish to the proper
34 officer of each taxing unit of the county an estimate of the amounts to
35 be distributed to the taxing units under this section during the next
36 calendar year and the budget of each taxing unit shall show the
37 estimated amounts to be received for each fund for which a property
38 tax is proposed to be levied.

39 SECTION 48. IC 6-6-6.5-23 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. **(a)** The department
41 ~~may~~ **shall** require the owner of an airport or any person or persons
42 leasing or subleasing space from an airport owner for the purpose of

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1 storing, renting, or selling aircraft to submit reports to the department
 2 listing the aircraft based at that airport. The reports shall identify the
 3 aircraft by Federal Aviation Administration number.

4 **(b) An airport owner or any other person required to submit a**
 5 **report under subsection (a) is subject to a civil penalty of one**
 6 **hundred dollars (\$100) for each aircraft that should have been and**
 7 **was not properly included on the report.**

8 SECTION 49. IC 6-8.1-3-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department has
 10 the sole authority to furnish forms used in the administration and
 11 collection of the listed taxes, **including reporting of information in**
 12 **an electronic format.**

13 SECTION 50. IC 6-8.1-3-12 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The department
 15 may audit any returns filed in respect to the listed taxes, may appraise
 16 property if the property's value relates to the administration or
 17 enforcement of the listed taxes, may audit gasoline distributors for
 18 financial responsibility, and may investigate any matters relating to the
 19 listed taxes.

20 **(b) The department may audit any returns with respect to the**
 21 **listed taxes using statistical sampling. If the taxpayer and the**
 22 **department agree to a sampling method to be used, the sampling**
 23 **method is binding on the taxpayer and the department in**
 24 **determining the total amount of additional tax due or amounts to**
 25 **be refunded.**

26 ~~(b)~~ (c) For purposes of conducting its audit or investigative
 27 functions, the department may:

- 28 (1) subpoena the production of evidence;
- 29 (2) subpoena witnesses; and
- 30 (3) question witnesses under oath.

31 The department may serve its subpoenas, or it may order the sheriff of
 32 the county in which the witness or evidence is located to serve the
 33 subpoenas.

34 ~~(c)~~ (d) The department may enforce its audit and investigatory
 35 powers by petitioning for a court order in any court of competent
 36 jurisdiction located in the county where the tax is due or in the county
 37 in which the evidence or witness is located. If the evidence or witness
 38 is not located in Indiana or if the department does not know the
 39 location of the evidence or witness, the department may file the petition
 40 in a court of competent jurisdiction in Marion County. The petition to
 41 the court must state the evidence or testimony subpoenaed and must
 42 allege that the subpoena was served but that the person did not comply

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with the terms of that subpoena.

~~(d)~~ (e) Upon receiving a proper petition under subsection ~~(c)~~; (d), the court shall promptly issue an order which:

(1) sets a hearing on the petition on a date not more than ten (10) days after the date of the order; and

(2) orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court shall order the defendant to comply with the subpoena.

~~(e)~~ (f) If the defendant fails to obey the court order, the court may punish the defendant for contempt.

~~(f)~~ (g) Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The department shall pay the compensation costs from the money appropriated for the administration of the listed taxes.

~~(g)~~ (h) County treasurers investigating tax matters under IC 6-9 have:

(1) concurrent jurisdiction with the department;

(2) the audit, investigatory, appraisal, and enforcement powers described in this section; and

(3) authority to recover court costs, fees, and other expenses related to an audit, investigatory, appraisal, or enforcement action under this section.

SECTION 51. IC 6-8.1-3-16, AS AMENDED BY P.L.177-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

(1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or

(2) by action of the commissioner under IC 6-8.1-8-2(k).

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(c) The department may not issue or renew:

- (1) a certificate under IC 6-2.5-8;
- (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or
- (3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

- (1) is subordinate to a perfected security interest (as defined and perfected in accordance with IC 26-1-9.1); and
- (2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

- (1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or
- (2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

- (1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or
- (2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

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(1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and (2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting information from disclosure by the department ~~does~~ do not apply to this subsection. ~~From the list prepared under subsection (a);~~ The department shall ~~compile each month~~ **prepare** a list of the taxpayers subject to tax warrants that:

(1) were issued at least twenty-four (24) months before the date of the list; and

(2) are for amounts that exceed one thousand dollars (\$1,000):

retail merchants whose registered retail merchant certificate has not been renewed under IC 6-2.5-8-1(g) or whose registered retail merchant certificate has been revoked under IC 6-2.5-8-7. The list compiled under this subsection must identify each taxpayer liable for a warrant retail merchant by name **(including any name under which the retail merchant is doing business)**, address, and amount of tax: **county.** The department shall publish the list compiled under this subsection on ~~accessIndiana~~ **the department's Internet web site** (as operated under IC 4-13.1-2) and make the list available for public inspection and copying under IC 5-14-3. The department or an agent, employee, or officer of the department is immune from liability for the publication of information under this subsection.

~~(k) The department may not publish a list under subsection (j) that identifies a particular taxpayer unless at least two (2) weeks before the publication of the list the department sends notice to the taxpayer stating that the taxpayer:~~

~~(1) is subject to a tax warrant that:~~

~~(A) was issued at least twenty-four (24) months before the date of the notice; and~~

~~(B) is for an amount that exceeds one thousand dollars (\$1,000); and~~

~~(2) will be identified on a list to be published on accessIndiana unless a tax release is issued to the taxpayer under subsection (b):~~

~~(l) The department may not publish a list under subsection (j) after June 30, 2006.~~

SECTION 52. IC 6-8.1-5-2, AS AMENDED BY P.L.131-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or ~~any~~ **either** of the following:

(1) The due date of the return. ~~or~~

(2) In the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

(b) If a person files **a utility receipts tax return (IC 6-2.3)**, an adjusted gross income tax (IC 6-3), supplemental net income tax (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1), county option income tax (IC 6-3.5-6), or financial institutions tax (IC 6-5.5) return that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent (25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

(c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have failed to file a return for purposes of this article.

(d) In the case of the commercial vehicle excise tax imposed under IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a commercial vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is considered to have failed to file a return for purposes of this article.

(e) In the case of the excise tax imposed on recreational vehicles and truck campers under IC 6-6-5.1, the tax shall be assessed as provided in IC 6-6-5.1 and must include the penalties and interest due on all listed taxes not paid by the due date. A person who fails to properly register a recreational vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.1 is considered to have failed to file a return for purposes of this article. A person who fails to pay the tax due under IC 6-6-5.1 on a truck camper is considered to have failed to file a return for purposes of this article.

(f) If a person files a fraudulent, unsigned, or substantially blank return, or if a person does not file a return, there is no time limit within which the department must issue its proposed assessment.

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(g) If any portion of a listed tax has been erroneously refunded by the department, the erroneous refund may be recovered through the assessment procedures established in this chapter. An assessment issued for an erroneous refund must be issued:

- (1) within two (2) years after making the refund; or
- (2) within five (5) years after making the refund if the refund was induced by fraud or misrepresentation.

~~(g)~~ (h) If, before the end of the time within which the department may make an assessment, the department and the person agree to extend that assessment time period, the period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must contain:

- (1) the date to which the extension is made; and
- (2) a statement that the person agrees to preserve the person's records until the extension terminates.

The department and a person may agree to more than one (1) extension under this subsection.

~~(h)~~ (i) If a taxpayer's federal income tax liability for a taxable year is modified due to the assessment of a federal deficiency or the filing of an amended federal income tax return, then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under IC 6-3 is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

SECTION 53. IC 6-8.1-6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. A taxpayer that is required under IC 6-3-4-1 to file a return ~~may~~ **shall** round to the nearest whole dollar an amount or item reported on the return. The following apply if an amount or item is rounded:

- (1) An amount or item of at least fifty cents (\$0.50) must be rounded up to the nearest whole dollar.
- (2) An amount or item of less than fifty cents (\$0.50) must be rounded down to the nearest whole dollar.

SECTION 54. IC 6-8.1-7-1, AS AMENDED BY P.L.131-2008, SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION 359, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement

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1 agreement executed between a taxpayer and the department,
 2 investigation records, investigation reports, or any other information
 3 disclosed by the reports filed under the provisions of the law relating
 4 to any of the listed taxes, including required information derived from
 5 a federal return, except to:

- 6 (1) members and employees of the department;
- 7 (2) the governor;
- 8 (3) the attorney general or any other legal representative of the
 9 state in any action in respect to the amount of tax due under the
 10 provisions of the law relating to any of the listed taxes; or
- 11 (4) any authorized officers of the United States;

12 when it is agreed that the information is to be confidential and to be
 13 used solely for official purposes.

14 (b) The information described in subsection (a) may be revealed
 15 upon the receipt of a certified request of any designated officer of the
 16 state tax department of any other state, district, territory, or possession
 17 of the United States when:

- 18 (1) the state, district, territory, or possession permits the exchange
 19 of like information with the taxing officials of the state; and
- 20 (2) it is agreed that the information is to be confidential and to be
 21 used solely for tax collection purposes.

22 (c) The information described in subsection (a) relating to a person
 23 on public welfare or a person who has made application for public
 24 welfare may be revealed to the director of the division of family
 25 resources, and to any director of a ~~county~~ local office of ~~family and~~
 26 ~~children~~ the division of family resources located in Indiana, upon
 27 receipt of a written request from either director for the information. The
 28 information shall be treated as confidential by the directors. In addition,
 29 the information described in subsection (a) relating to a person who has
 30 been designated as an absent parent by the state Title IV-D agency
 31 shall be made available to the state Title IV-D agency upon request.
 32 The information shall be subject to the information safeguarding
 33 provisions of the state and federal Title IV-D programs.

34 (d) The name, address, Social Security number, and place of
 35 employment relating to any individual who is delinquent in paying
 36 educational loans owed to a postsecondary educational institution may
 37 be revealed to that institution if it provides proof to the department that
 38 the individual is delinquent in paying for educational loans. This
 39 information shall be provided free of charge to approved postsecondary
 40 educational institutions (as defined by IC 21-7-13-6(a)). The
 41 department shall establish fees that all other institutions must pay to the
 42 department to obtain information under this subsection. However, these

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fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana, when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ (h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ (i) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ (j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ (k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ (l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information

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is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

~~(n)~~ (n) This section does not apply to:

- (1) the beer excise tax, **including brand and packaged type** (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

~~(m)~~ (o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 55. IC 6-8.1-8-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 1.7. The department may require a person who is paying the person's outstanding gross retail tax or withholding tax liability using periodic payments to make the periodic payment by electronic funds transfer through an automatic withdrawal from the person's account at a financial institution.**

SECTION 56. IC 6-8.1-10-2.1, AS AMENDED BY P.L.211-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2.1. (a) If a person:

- (1) fails to file a return for any of the listed taxes;
- (2) fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment;
- (3) incurs, upon examination by the department, a deficiency that is due to negligence;
- (4) fails to timely remit any tax held in trust for the state; or
- (5) is required to make a payment by electronic funds transfer (as defined in IC 4-8.1-2-7), overnight courier, or personal delivery and the payment is not received by the department by the due date

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1 in funds acceptable to the department;
 2 the person is subject to a penalty.

3 (b) Except as provided in subsection (g), the penalty described in
 4 subsection (a) is ten percent (10%) of:

5 (1) the full amount of the tax due if the person failed to file the
 6 return;

7 (2) the amount of the tax not paid, if the person filed the return
 8 but failed to pay the full amount of the tax shown on the return;

9 (3) the amount of the tax held in trust that is not timely remitted;

10 (4) the amount of deficiency as finally determined by the
 11 department; or

12 (5) the amount of tax due if a person failed to make payment by
 13 electronic funds transfer, overnight courier, or personal delivery
 14 by the due date.

15 (c) For purposes of this section, the filing of a substantially blank or
 16 unsigned return does not constitute a return.

17 (d) If a person subject to the penalty imposed under this section can
 18 show that the failure to file a return, pay the full amount of tax shown
 19 on the person's return, timely remit tax held in trust, or pay the
 20 deficiency determined by the department was due to reasonable cause
 21 and not due to willful neglect, the department shall waive the penalty.

22 (e) A person who wishes to avoid the penalty imposed under this
 23 section must make an affirmative showing of all facts alleged as a
 24 reasonable cause for the person's failure to file the return, pay the
 25 amount of tax shown on the person's return, pay the deficiency, or
 26 timely remit tax held in trust, in a written statement containing a
 27 declaration that the statement is made under penalty of perjury. The
 28 statement must be filed with the return or payment within the time
 29 prescribed for protesting departmental assessments. A taxpayer may
 30 also avoid the penalty imposed under this section by obtaining a ruling
 31 from the department before the end of a particular tax period on the
 32 amount of tax due for that tax period.

33 (f) The department shall adopt rules under IC 4-22-2 to prescribe the
 34 circumstances that constitute reasonable cause and negligence for
 35 purposes of this section.

36 (g) A person who fails to file a return for a listed tax that shows no
 37 tax liability for a taxable year, other than an information return (as
 38 defined in section 6 of this chapter), on or before the due date of the
 39 return shall pay a penalty of ten dollars (\$10) for each day that the
 40 return is past due, up to a maximum of two hundred fifty dollars
 41 (\$250).

42 (h) A corporation which otherwise qualifies under IC 6-3-2-2.8(2),

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~~but~~ partnership, or trust that fails to withhold and pay any amount of tax required to be withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty equal to twenty percent (20%) of the amount of tax required to be withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty shall be in addition to any penalty imposed by section 6 of this chapter.

(i) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

(j) If a partnership or an S corporation fails to include all nonresidential individual partners or nonresidential individual shareholders in a composite return as required by IC 6-3-4-12(h) or IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership or S corporation is imposed on the partnership or S corporation.

SECTION 57. IC 6-8.1-10-5, AS AMENDED BY P.L.131-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If a person makes a tax payment with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment on the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, a penalty of ten percent (10%) of the unpaid tax or the value of the check, credit card, debit card, or electronic funds transfer, whichever is smaller, is imposed.

(b) When a penalty is imposed under subsection (a), the department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has ten (10) days after the date the notice is mailed to pay the tax and the penalty either in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the ten (10) day period, the penalty is increased to one hundred percent (100%) multiplied by the value of the check, credit card, debit card, or electronic funds transfer, or the unpaid tax, whichever is smaller.

(c) If a person has been assessed a penalty under subsection (a) more than one (1) time, the department may require that all future payments for all listed taxes to be remitted with guaranteed funds.

~~(c)~~ (d) If the person subject to the penalty under this section can show that there is reasonable cause for the check, credit card, debit card, or electronic funds transfer not being honored, the department may waive the penalty imposed under this section.

SECTION 58. IC 22-4-19-6, AS AMENDED BY P.L.108-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and

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accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

- (A) The purpose of conducting a survey.
- (B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.
- (C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

- (3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business

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establishment list improvement project may be released to the budget agency **and the legislative services agency** only for aiding the employees of the budget agency **or the legislative services agency** in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, ~~or~~ the budget agency, **or the legislative services agency** will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who

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1 recklessly violates subsection (d)(4);
 2 commits a Class B misdemeanor.

3 (h) An employee of the Indiana economic development corporation,
 4 ~~or~~ the budget agency, **or the legislative services agency** who violates
 5 subsection (d) or (e) commits a Class B misdemeanor.

6 (i) An employer or agent of an employer that becomes aware that a
 7 claim has been made under IC 22-4-15-1(c)(8) shall maintain that
 8 information as confidential.

9 SECTION 59. IC 6-6-2.5-13.1 IS REPEALED [EFFECTIVE JULY
 10 1, 2009].

11 SECTION 60. [EFFECTIVE JANUARY 1, 2008
 12 (RETROACTIVE)] **IC 6-3-1-34.5, as amended by this act, applies to**
 13 **taxable years beginning after December 31, 2007.**

14 SECTION 61. [EFFECTIVE JANUARY 1, 2009
 15 (RETROACTIVE)] **IC 6-3-1-35, as added by this act, and IC 6-3-2-8**
 16 **and IC 6-3-3-10, both as amended by this act, apply to taxable**
 17 **years beginning after December 31, 2008.**

18 SECTION 62. [EFFECTIVE JANUARY 1, 2009
 19 (RETROACTIVE)] **IC 6-3-2-2 and IC 6-3-3-12, both as amended by**
 20 **this act, apply to taxable years beginning after December 31, 2008.**

21 SECTION 63. [EFFECTIVE JANUARY 1, 2010] **IC 6-5.5-1-2, as**
 22 **amended by this act, applies to taxable years beginning after**
 23 **December 31, 2009.**

24 SECTION 64. [EFFECTIVE JULY 1, 2009] (a) **This SECTION**
 25 **applies to towns (as defined in IC 36-1-2-21).**

26 (b) **The definitions set forth in IC 6-2.3-1 apply to this**
 27 **SECTION.**

28 (c) **This SECTION applies only to a taxable year ending in 2003**
 29 **or 2004.**

30 (d) **A town may claim a refund for gross income taxes**
 31 **erroneously paid under IC 6-2.1 (before its repeal), if the town paid**
 32 **both:**

33 (1) **the gross income tax imposed by IC 6-2.1 (before its**
 34 **repeal); and**

35 (2) **the utilities receipts tax imposed by IC 6-2.3;**
 36 **for the same taxable year.**

37 (e) **The department shall prescribe the form and procedure that**
 38 **a town must use to claim its refund.**

39 (f) **This SECTION expires December 31, 2009.**

40 SECTION 65. [EFFECTIVE JANUARY 1, 2009
 41 (RETROACTIVE)] (a) **A prepayment rate determined by the**
 42 **department under IC 6-2.5-7-14, as amended by this act, that took**

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1 effect after December 31, 2008, is legalized and validated.
2 (b) This SECTION expires December 31, 2009.
3 SECTION 66. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 541, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 12 with "[EFFECTIVE JANUARY 1, 2010]".

Page 10, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 7. IC 6-3-1-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 3.7. (a) This section applies only to an individual who in 2009 paid property taxes that:**

- (1) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;**
- (2) are due after December 31, 2008; and**
- (3) are paid on or before the due date for the property taxes.**

(b) An individual described in subsection (a) is entitled to a deduction from adjusted gross income for a taxable year beginning after December 31, 2008, and before January 1, 2010, in an amount equal to the amount determined in the following STEPS:

STEP ONE: Determine the lesser of:

- (A) two thousand five hundred dollars (\$2,500); or**
- (B) the total amount of property taxes imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date and paid in 2008 or 2009.**

STEP TWO: Determine the greater of zero (0) or the result of:

- (A) the STEP ONE result; minus**
- (B) the total amount of property taxes that:**
 - (i) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;**
 - (ii) were paid in 2008; and**
 - (iii) were deducted from adjusted gross income under section 3.5(a)(17) of this chapter by the individual on the individual's state income tax return for a taxable year beginning before January 1, 2009.**

(c) The deduction under this section is in addition to any deduction that an individual is otherwise entitled to claim under section 3.5(a)(17) of this chapter. However, an individual may not

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deduct under section 3.5(a)(17) of this chapter any property taxes deducted under this section.

(d) This section expires January 1, 2014."

Page 11, delete lines 8 through 9 and insert:

"(3) a listed property trust or other foreign real estate investment trust that is organized in a country that has a tax treaty with the United States Treasury Department governing the tax treatment of these trusts; or".

Page 11, line 10, delete "(5)" and insert **"(4)"**

Page 22, delete lines 29 through 33.

Page 22, line 34, delete "(g)" and insert **"(f)"**.

Page 22, line 37, delete "(h)" and insert **"(g)"**.

Page 22, line 39, delete "(i)" and insert **"(h)"**.

Page 23, line 18, delete "(j)" and insert **"(i)"**.

Page 23, line 19, delete "an account owner who is".

Page 23, line 21, reset in roman "a married couple".

Page 23, line 21, delete "an account owner who is".

Page 23, line 22, delete "with a spouse." and insert **"."**.

Page 23, line 23, delete "(k)" and insert **"(j)"**.

Page 23, delete lines 34 through 35.

Page 23, line 36, delete "(l)" and insert **"(k)"**.

Page 23, line 38, delete "(m)" and insert **"(l)"**.

Page 23, line 40, delete "(n)" and insert **"(m)"**.

Page 24, line 3, delete "(o)" and insert **"(n)"**.

Page 24, line 17, delete "(p)" and insert **"(o)"**.

Page 24, line 21, delete "(q)" and insert **"(p)"**.

Page 24, line 27, delete "(r)" and insert **"(q)"**.

Page 24, between lines 34 and 35, begin a new paragraph and insert:

"(r) The department may disallow a credit under this section unless the taxpayer, at the request of the department, establishes by a preponderance of the evidence that the taxpayer who made the contribution giving rise to the credit did not have tax avoidance as a principal purpose."

Page 27, between lines 18 and 19, begin a new paragraph and insert:

SECTION 16. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

- (1) methanol, denatured ethanol, and other alcohols;
- (2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;

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- (3) natural gas;
- (4) liquefied petroleum gas;
- (5) hydrogen;
- (6) coal-derived liquid fuels;
- (7) non-alcohol fuels derived from biological material;
- (8) P-Series fuels; ~~or~~
- (9) electricity; **or**

(10) biodiesel or diesel fuel."

Page 44, delete lines 17 through 42.

Delete pages 45 through 47.

Page 48, delete lines 1 through 18.

Page 68, line 15, after "fund" delete "." and insert **"in the preceding calendar year."**

Page 68, line 18, after "to" strike "the".

Page 68, line 23, after "fund." insert **"fifty percent (50%) of the"**.

Page 68, line 26, after "fund" delete "." and insert **"in the preceding calendar year."**

Page 74, line 30, reset in roman "income,".

Page 74, line 30, delete "adjusted gross".

Page 74, line 31, delete "income, taxable income, or taxable gross receipts,".

Page 74, line 31, reset in roman "that term is"

Page 74, line 32, delete "those terms are".

Page 78, between lines 24 and 25, begin a new paragraph and insert:
"SECTION 55. IC 22-4-19-6, AS AMENDED BY P.L.108-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to

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public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

- (A) The purpose of conducting a survey.
- (B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.
- (C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

- (3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency **and the legislative services agency** only for aiding the employees of the budget agency **or the legislative services agency** in forecasting tax revenues.

- (4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

- (A) department of state revenue; or
- (B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

- (1) if:

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(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, ~~or~~ the budget agency, **or the legislative services agency** will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, ~~or~~ the budget agency, **or the legislative services agency** who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential."

Page 78, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 60. [EFFECTIVE JULY 1, 2009] **(a) This SECTION applies to towns (as defined in IC 36-1-2-21).**

(b) The definitions set forth in IC 6-2.3-1 apply to this SECTION.

(c) This SECTION applies only to a taxable year ending in 2003 or 2004.

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(d) A town may claim a refund for gross income taxes erroneously paid under IC 6-2.1 (before its repeal), if the town paid both:

(1) the gross income tax imposed by IC 6-2.1 (before its repeal); and

(2) the utilities receipts tax imposed by IC 6-2.3; for the same taxable year.

(e) The department shall prescribe the form and procedure that a town must use to claim its refund.

(f) This SECTION expires December 31, 2009."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 541 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 541 be amended to read as follows:

Page 5, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 4. IC 6-2.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Each refiner or terminal operator and each qualified distributor that has received a prepayment of the state gross retail tax under this chapter shall remit the tax received to the department semimonthly, **through the department's online tax filing system**, according to the following schedule:

(1) On or before the tenth day of each month for prepayments received after the fifteenth day and before the end of the preceding month.

(2) On or before the twenty-fifth day of each month for prepayments received after the end of the preceding month and before the sixteenth day of the month in which the prepayments are made.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file a report covering the prepaid taxes received and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

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(1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.

(2) The amount of tax prepaid by each purchaser or receiver.

(3) Any other information reasonably required by the department.

SECTION 5. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2009 (RETROACTIVE)]: Sec. 14. (a) Before **March 10**, June 10, **September 10**, and December 10 of each year, the department shall determine and provide to:

(1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and

(2) any other person that makes a request;

a notice of the prepayment rate to be used during the following ~~six (6)~~ **three (3)** month period. ~~The department shall also have the prepayment rate published in the June and December issues of the Indiana Register. The department, after approval by the office of management and budget, may determine a new prepayment rate if the department finds that the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax, has changed by at least twenty-five percent (25%) since the most recent determination.~~

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The STEP ONE amount.

(B) The Indiana gross retail tax rate.

(C) **Ninety Eighty percent (90%): (80%).**

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

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(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001).".

Page 12, delete lines 21 through 31, begin a new line block indented and insert:

"(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a trust;

(4) a limited liability company; or

(5) a limited liability partnership."

Page 13, line 9, delete "attributed to Indiana" and insert **"considered Indiana source income"**.

Page 13, line 10, delete "entity" and insert **"person, corporation, or pass through entity"**.

Page 25, line 27, delete "a" and insert **"the"**.

Page 25, line 27, delete "." and insert **"of the contribution."**.

Page 60, line 4, after "quarry" insert **"or mine"**.

Page 60, line 10, delete "." and insert **"or mine."**.

Page 73, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 55. IC 6-8.1-7-1, AS AMENDED BY P.L.131-2008, SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION 359, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

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(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a ~~county~~ *local* office of ~~family and children~~ *the division of family resources* located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information;

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and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana, when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ (h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ (i) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ (j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ (k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ (l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

~~(l)~~ (n) This section does not apply to:

- (1) the beer excise tax, **including brand and packaged type** (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);

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- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

~~(m)~~ (o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2."

Page 78, between lines 33 and 34, begin a new paragraph and insert:
 "SECTION 65. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] **(a) A prepayment rate determined by the department under IC 6-2.5-7-14, as amended by this act, that took effect after December 31, 2008, is legalized and validated.**

(b) This SECTION expires December 31, 2009."

Renumber all SECTIONS consecutively.

(Reference is to SB 541 as printed January 30, 2009.)

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